

United States
Circuit Court of Appeals

For the Ninth Circuit.

THE COUNTY OF MARICOPA, STATE OF
ARIZONA,

Appellant.

vs.

OLIVIA ROSEVEARE,

Appellee.

Transcript of Record

Upon Appeal from the United States District Court for the
District of Arizona.

FILED

MAR 15 1935

PAUL R. O'BRIEN,
Clerk

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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ATTORNEYS OF RECORD

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* Page numbering appearing at the foot of page of original certified Transcript of Record.

Minute Entry of
MONDAY, NOVEMBER 2, 1931

October 1931 Term

At Phoenix

HONORABLE F. C. JACOBS, United States District Judge, presiding

L-812

OLIVIA ROSEVEARE,

Plaintiff,

vs.

THE COUNTY OF MARICOPA, STATE OF ARIZONA,

Defendant.

Defendant's Motion to make Complaint More Definite and Certain, and Defendant's Special Demurrers to Plaintiff's Complaint, come on regularly for hearing this day.

M. L. Ollerton, Esquire, appears for D. P. Skousen, Esquire, counsel of record for the Plaintiff. Dudley W. Windes, Esquire, and Charles L. Strouss, Esquire, appear as counsel for the defendant.

Argument is now had by respective counsel, and

IT IS ORDERED that said Defendant's Motion to Make Complaint More Definite and Certain be and the same is hereby granted, and that said Defendant's Special Demurrers to Plaintiff's Com-

plaint be continued and reset for hearing on Monday, November 9, 1931, at the hour of ten o'clock A. M. [4]

Minute Entry of
MONDAY, NOVEMBER 9, 1931

October 1931 Term

At Phoenix

HONORABLE F. C. JACOBS, United States District Judge, presiding

[Title of Cause.]

Defendant's Special Demurrers to Plaintiff's Complaint, come on regularly for hearing this day.

D. P. Skousen, Esquire, appears for the Plaintiff. Dudley W. Windes, Esquire, appears as counsel for the Defendant.

On motion of said counsel for the Defendant, and upon consent of Counsel for the Plaintiff,

IT IS ORDERED that said Defendant's Special Demurrer to Plaintiff's Complaint be continued and reset for hearing on Monday, November 23, 1931, at the hour of ten o'clock A. M. [5]

Minute Entry of
TUESDAY, DECEMBER 1, 1931

October 1931 Term

At Phoenix

HONORABLE F. C. JACOBS, United States District Judge, presiding

[Title of Cause.]

On motion of W. W. Clark, Esquire, appearing for Dudley W. Windes, Esquire, counsel for the Defendant.

IT IS ORDERED that Defendant's Special Demurrer to Plaintiff's Complaint be reinstated upon the Law and Motion Calendar and set for hearing December 14, 1931, at the hour of ten o'clock A. M. [6]

In the District Court of the United States for the
District of Arizona

No. L-812-Phx

AT LAW

Phoenix, Maricopa County, State of Arizona

OLIVIA ROSEVEARE,

Plaintiff,

vs.

THE COUNTY OF MARICOPA, STATE OF
ARIZONA,

Defendant.

PLAINTIFF'S AMENDED COMPLAINT

COMES NOW the plaintiff by her attorneys, D. P. Skousen and M. L. Ollerton, and for cause of action against the defendant, alleges:

FIRST CAUSE OF ACTION:

I.

That the plaintiff is a resident of Madison, State of Wisconsin. That the defendant is now, and at all times hereinafter mentioned, was a municipal corporation and a body politic corporate, and one of the legal divisions of the State of Arizona, to wit, one of the Counties in which the State of Arizona has been, and is divided.

II.

That this is an action at law brought to recover taxes illegally assessed and collected upon United States homestead lands, filed upon and entered by the plaintiff and various sundry other persons hereinafter named, by the County of Maricopa, State of Arizona.

III.

That this action involves Clause One (1) Section Two (2), and Clause Two (2) Section Three (3) Article Four (4) of the United States Constitution, and Section One (1) of the Fourteenth (14) Amendment thereof, and Clauses One and Eighteen (18) Section Eight (8) Article One (1) and Paragraph Two (2) Article Six (6) [7] of said United States Constitution; and laws enacted by the Congress of the United States in pursuance of said constitutional provisions relating to the disposition and sale of public lands and defining the rights, privileges, and immunities of homesteaders deriving title from the United States Government; and involves

also the right of the County of Maricopa to appropriate property of homesteaders on United States Public Lands without due process of law, and the denial to said homesteaders of the equal protection of the law, and the construction, application and enforcement of the Statutes of the State of Arizona in contravention of the Constitution and laws of the United States.

IV.

That on or about the year 1872, the land and premises hereinafter described as being in Maricopa county, State of Arizona, then the Territory of Arizona, became subject to entry under the public land laws of the United States, and among others subject to entry under the General Homestead Law as provided by the Act of May 20, 1862, and Act amendatory thereof and supplementary thereto.

That under and by virtue of said Act of May 20, 1862, and acts amendatory thereof and supplementary thereto, the Secretary of the Interior Department of the United States Government was and is authorized to perform any and all acts, and to make such rules and regulations as may be necessary or proper for the purpose of carrying out the provisions of said Acts.

That pursuant to said authority the Secretary of the Interior prescribed rules and regulations relating to homestead entries under said general homestead law under the title of "Suggestions to Homesteaders and persons desiring to make Homestead

Entries," which said regulations are hereby referred to and made part hereof as fully and to all intents and purposes as if incorporated herein.

That said Acts, rules and regulations provide, among other things: [8]

That every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the Naturalization Laws, shall be entitled to enter one quarter section or a less quantity of unappropriated public lands, to be selected in and be in conformity with the legal subdivisions of the public lands, by applying to enter said lands and making and subscribing before a proper officer and in a proper Land Office of the United States an affidavit showing that he or she is qualified to make said entry.

Every person making a homestead entry under said public land laws and regulations is required, among other things, to establish a residence upon the tract of land entered within six months after the date of entry, and maintain a residence thereon for a period of not less than three years, and to cultivate said land for a period of at least two years; to submit final proof within five or seven years from date of entry as to residence, cultivation and improvements, first giving notice of the time and place for submission of final proof, as required by laws and regulations.

V.

That thereafter the said public land laws were further amended and supplemented by the Act of June 17, 1902, commonly known as the "Reclamation Act."

That said Reclamation Act, and Acts amendatory thereof and supplementary thereto, provided for the withdrawal of public lands from all forms of entry except under homestead laws, and except when subject to the provisions, limitations, charges, terms and conditions of said Reclamation Act and acts amendatory thereof and supplementary thereto.

That under and by virtue of said Reclamation Act and acts amendatory thereof and supplementary thereto, the Secretary of [9] the Interior was and is authorized to perform any and all acts and to make such rules and regulations as may be necessary or proper for the carrying out of the provisions of said acts.

That pursuant to said authority the Secretary of the Interior, upon the passage of said acts, prescribed rules and regulations relating to reclamation homestead entries within reclamation projects of the United States in a general circular known as "General Reclamation Circular", which said regulations are referred to and made part hereof as fully and to all intents and purposes as if incorporated herein.

That under said Reclamation Act and amendments and supplements thereto, and the rules and regulations prescribed thereunder, the Secretary

of the Interior Department of the United States Government is authorized and empowered to determine the area of lands for which one person may obtain title under said Acts and regulations in each and every reclamation project.

That each entry is subject to re-adjustment by said Secretary of the Interior, and that said Secretary of the Interior is not required to confine any Farm Unit established by him to the limits of any entry theretofore made, but may combine any legal subdivision thereof with any contiguous tract lying outside of said entry.

That homestead entrymen within reclamation projects are precluded from making final proof and from receiving final certificate or patent until said Secretary of the Interior shall have determined the Farm Unit for such reclamation project.

That each homestead entryman under said reclamation act is required to confirm his entry to such Farm Unit as may be established by the said Secretary of the Interior.

That in addition to the acts and things required of homestead entrymen under the General Homestead Law, homestead entrymen of lands lying in irrigation projects are required to clear [10] the land, entered by or assigned to them, of brush, trees and other incumbrances, to provide the same with sufficient laterals for its effective irrigation, to grade the same and put it in proper condition for irrigation and crop growth, to plant, irrigate and cultivate during at least two years next preceding

the time of filing the Final Affidavit, hereinafter mentioned, at least one-half of the irrigable area of his entry, and to grow satisfactory crops thereon.

That under said reclamation acts and the regulations no Final Certificate can be issued until the doing of all the things enumerated under said Acts and regulations, particularly the acts and things herein mentioned.

That in addition to the proof required under the general homestead laws of the United States, homestead entrymen upon homesteads within any reclamation project are required, as appears from said acts and regulations and Form of Notice of acceptance of Proof of Homestead residence issued by the U. S. Land Office officials, to submit to the United States Land Office, in which such reclamation project is located, an affidavit, corroborated by two witnesses, showing that the land entered by him, or assigned to him, has been cleared of brush, trees, and other incumbrances, provided with sufficient laterals for its effective irrigation, graded and otherwise put in proper condition for irrigation and crop growth, planted, irrigated and cultivated, and during at least two years next preceding the date of the filing of Final Affidavit that satisfactory crops have been grown on at least one-half of the irrigable area thereof.

That said entryman is further required, before the issuance of Final Certificate, to pay to the Land Office Officials of the proper Land Office the sum of \$1.50 for each legal subdivision included in each

farm unit, together with all water charges due thereon. [11]

That upon the compliance with the requirements of said Reclamation Acts and regulations, Final Certificate is issued to said Reclamation Homestead entryman or assigns, reserving a lien to the United States Government for charges due for the irrigation works supplying said irrigation project with water, and that thereafter patent for said land issued to such entryman or assigns containing like reservations of a lien to the United States Government.

VI.

That on the 17th day of July, 1902, the Secretary of the Interior withdrew the lands and premises hereinafter described as lying and being in Maricopa County, State of Arizona, from all entries except homestead entries under the Act of June 17, 1902, and acts amendatory thereof and supplementary thereto, and the regulations promulgated thereunder.

VII.

That thereafter, to wit, on the 25th day of June, 1904, said lands were incorporated in that certain reclamation project established under and by virtue of said Act of June 17, 1902, and acts amendatory thereof and supplementary thereto, and designated the "Salt River Project".

VIII.

That on the 14th day of February, 1912, the Territory of Arizona was admitted into the Federal Union by Enabling Act approved June 20, 1910, whereby the lands and property belonging to the United States of America, or reserved for its use, were exempted from taxation.

IX.

That on the 18th day of January, 1917, the Secretary of the Interior Department of the United States Government established the area which might be included in any one entry or farm Unit within the said Salt River Project at forty (40) acres.

[12]

X.

That on the said 18th day of January, 1917, the Secretary of the Interior Department of the United States Government established Farm Units within the Salt River Valley under said Reclamation Act of June 17, 1902, and the regulations issued thereunder, and ordered and required all homestead entrymen within two years from the date thereof to conform their entry to such Farm Unit.

XI.

That this plaintiff and the different persons, assignors of this plaintiff, whose names are entered and set forth in the plaintiff's Additional Causes of Action, made entry of the various tracts of land described in plaintiff's said additional causes

of action and insofar as required at said times and under the then existing circumstances and regulations, fully and truly in every particular complied with the requirements of said general homestead laws and said reclamation homestead laws and made entries for the respective tracts set out and described in the plaintiff's said additional causes of action, and proofs regarding the same, and assignments thereof upon the date set forth as will hereafter more fully appear, made and executed assignments of their various causes of action for valuable consideration to this plaintiff.

XII.

That previous to the making and acceptance of final proof, and the payment of the moneys due the Federal Government, and the issuance of final certificate thereof, the said premises of this plaintiff and each and all the premises described in plaintiff's said additional causes of action, and each and all thereof, under the Constitution and laws of the United States, were the property of said United States of America, and were exempt from taxation by the State of Arizona, and all municipalities thereof. [13]

XIII.

That after the incorporation of said lands within the Salt River Project, to wit, the 25th day of June, 1904, and the establishment of said lands as reclamation homestead entries, to wit, during the years from 1911 to and including 1925, and before

the issuance of final certificate or patent to the plaintiff herein for her said land, and before the issuance of final certificate or patent to the plaintiff's assignors set out in said additional causes of action, the County authorities of Maricopa County, State of Arizona, (then the Territory of Arizona), assessed said lands of this plaintiff and all of said lands described in plaintiff's said additional causes of action for the State and County taxes for said County, Territory and State aforesaid, and thereafter the Board of Supervisors of said County and State levied taxes against the lands of this plaintiff and each and all of the various tracts of land described in plaintiff's said additional causes of action, and in the amounts and sums in said additional causes of action shown, which taxes were duly entered upon the public tax records of said County and State, and officially declared a lien upon said lands as in cases of assessments and levies upon and against other lands individually and privately owned by others than the United States or homestead entrymen.

XIV.

That thereafter each year from 1911 during the continuance of the Territorial status of said State of Arizona, and following the admission of said Territory as a State into the Federal Union up to and including 1925, said County and State authorities annually assessed and levied taxes against said premises for each and every one of

said years; that said taxes were thereafter duly entered upon the public tax records of Maricopa County, State of Arizona, and by said authorities, in manner and form for the assessment and taxing of real property according to the Statutes [14] of Arizona, officially declared to be a first lien upon said lands.

XV.

That the Statutes of the State of Arizona relating to the assessment, levy and collection of taxes including Chapter 75, Article 5, Revised Statutes of the State of Arizona, 1928, and amendments thereof and supplements thereto, applied, construed and enforced by the taxing officials of said State of Arizona and said County of Maricopa, are hereby referred to and made part hereof as though fully incorporated herein. That said Revenue Statutes of said State of Arizona provide, inter alia, particularly Paragraph 3136 of said Chapter 75, Article 7, page 732, 1928 Revised Statutes of Arizona, that no person shall be permitted for any reason to test the validity of any tax assessed unless the amount of such tax shall have first been paid to the official whose duty it is to collect the same, together with all penalties and costs, but that after payment an action may be maintained to recover any tax illegally collected.

XVI.

That said Revenue Statutes of the State of Arizona further provide, inter alia, for the attachment, accumulation, operation and enforcement of great and onerous and cumulative penalties, fees, interest and compound interest and charges against each and every taxpayer for his failure to pay taxes assessed as the same become due, which penalties, interests, charges and expenses must be paid at the time of payment of said tax originally assessed and become a lien against the property assessed in the same manner as the said original tax.

XVII.

That by reason of the premises aforesaid, the said officials of Maricopa County, including the County Assessor and County Treasurer thereof, in each and all of said years herein mentioned, [15] claimed, alleged and declared that there was legally due and owing from this plaintiff and the various persons whose names are set forth in plaintiff's said additional causes of action, as and for taxes assessed for said years hereinbefore mentioned upon said additional causes of action, the various sums and each and all thereof in said additional causes of action mentioned, for and as taxes alleged by said officials of said county to have been duly and legally assessed and levied against the various premises in said additional causes of action, described, and which sums and each and all thereof the County Treasurer claimed to be due from this plaintiff

and each and all of said plaintiff's assignors to the County of Maricopa and State of Arizona.

That during each and all of said years, to wit, 1911 to 1925 inclusive, as aforesaid, despite the fact, as aforesaid, that final proof had not been made thereon, and despite the fact that no affidavit of proof of reclamation, improvement and irrigation relating thereto had been made, or fees paid thereon, and despite the fact that no final certificate had been issued therefor, the said County of Maricopa, acting in this regard by its duly elected officials, at all times herein required, requested, demanded and insisted upon payment, by this plaintiff and each and all of the persons whose names are set forth in plaintiff's said additional causes of action, of the taxes so assessed and levied against the said premises and all thereof, described, as aforesaid, in plaintiff's said additional causes of action.

XVIII.

That this plaintiff and the various persons whose names are set forth in plaintiff's additional causes of action at all times herein mentioned protested and objected to the taxation of their respective tracts of land for the reason that title to the same was still in the United States Government and that said County taxing authorities were without power or authority to tax lands [16] of the character of homestead lands for which final certificate had not been issued.

That this plaintiff and the various persons whose names are set forth in said additional causes of

action and many others united in forming an association to object and protest against the taxation of said lands and that they and each and all of them individually and collectively protested and objected to the assessment of their lands and the levying and collection of taxes thereon.

XIX.

That notwithstanding the protesting and objecting of this plaintiff and said various persons whose names are set forth in plaintiff's additional causes of action, the said County of Maricopa demanded that the said taxes levied as aforesaid, together with all penalties, interest and charges be paid upon said respective tracts of land, and threatened to sell the lands of this plaintiff and the lands of said various other persons for said taxes, interest and penalties; and threatened to dispossess this plaintiff and said various other persons from their respective tracts of land.

That said County of Maricopa through its duly elected officials instituted a great number of suits for the collection of taxes assessed against homesteads lands similarly situated, and brought various and numerous onerous and annoying suits against the members of said taxpayers association and the various persons whose names are set forth in said additional causes of action to enforce the levy of said taxes and to collect the same; and by public announcements, publications, declarations and proclamations announced and declared that said County of Maricopa proposed to collect each and all of said

taxes and to sell each and all of said premises and to dispossess each and all of said homestead entrymen unless said taxes were paid. [17]

XX.

That on the 12th day of December, 1919, an action was filed by one, William Irwin, plaintiff, v. Vernon Wright, defendant, the latter being the treasurer and tax collector of Maricopa County, State of Arizona, and which suit was carried to the United States Supreme Court, said suit being reported in 258 United States Reports, page 219. The Supreme Court of the United States held in the said suit that the taxes so levied, assessed and collected were done so illegally. That the said suit as filed and the appeal thereof and the decision of the United States Supreme Court are made a part hereof by specific reference and are incorporated herein as if set out as a part of this complaint.

XXI.

That while the suit referred to in the preceding paragraph was being prosecuted and carried up through the various courts of the United States to the Supreme Court of the United States, the County of Maricopa, by its officers and officials, continued to collect taxes on lands that the final certificates had not yet been issued to and filed and brought many onerous, expensive and annoying suits against homestead entrymen in the Salt River Project for the collection of taxes.

XXII.

That said taxes were not voluntarily paid, but on the contrary the payment of said taxes was involuntary and under protest and objection, and was paid to prevent the dispossession of this plaintiff by said County, and the consequent interference with her compliance with the United States Homestead law, to prevent a sale of her said premises and a cloud upon her title, to prevent the accumulation of great and onerous penalties and interest; that the collecting of said taxes by said County produced serious consequences and irreparable injuries to this plaintiff and her property rights; to prevent a seizure of her property [18] and additional irreparable injury, and that said payment was made under duress, coercion and intimidation; that the same methods were used to enforce payment from, and the same injuries suffered by each of the assignors in the additional causes of action of this plaintiff.

XXIII.

That the assessing, levying and collecting of said taxes was made arbitrarily and without due process of law, and in denial of the equal protection of the law and the rights, privileges and immunities of this plaintiff and her said assignors holding said land as homesteaders and under the homestead laws of the United States, and in contravention of the constitution and laws of the United States.

That said County of Maricopa, though often re-

quested to so do, has failed and neglected and refused and still refuses to repay this plaintiff said taxes so paid to said County Treasurer; that said refusal to repay said taxes is without any authority, equity, justice or law, and that said funds so paid as taxes are due to this plaintiff from said defendant *ex aequo et bono*.

XXIV.

That this plaintiff is now, and at all times herein mentioned, was, the owner of the Southeast Quarter of Section thirty-three, Township one north, Range three East, G. S. R. B. & Meridian which said premises were then and there a reclamation homestead for which final certificate had not been issued and was then and there the property of the United States of America. That the final certificate was not issued to this plaintiff on her said land until the 20th day of October, 1919, and the final certificate was issued to each of the assignors of this plaintiff on the date or dates set out in the said additional causes of action.

XXV.

That between the 1st day of January, 1914, and the 30th day [19] of December, 1919, this plaintiff, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of Three Thousand One Hundred Twenty and 10/100 (\$3120.-10) dollars.

WHEREFORE, plaintiff prays judgment against said defendant for the sum of \$3120.10, together with interest thereon at the legal rate from the time of payment thereof until the rendition of judgment herein, together with costs and disbursements herein expended, and for such other and further relief as to the Court may seem just and equitable.

OLIVIA ROSEVEARE,
Plaintiff.

D. P. SKOUSEN,
M. L. OLLERTON,
Attorneys for Plaintiff.

COMES NOW the plaintiff by her attorneys, D. P. Skousen and M. L. Ollerton, and for additional causes of action against the defendant, alleges:

SECOND CAUSE OF ACTION:

I.

This plaintiff reiterates the statements and allegations and facts set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her second cause of action. [20]

II.

That Wm. S. Doner, assignor of this plaintiff, was, during the years from 1911 to 1918 inclusive, the owner of the Northeast quarter of the Southwest quarter of the Southwest quarter of Section

Twenty-eight, Township One North, Range Three East, G. S. R. B. and Meridian; that the said Doner entered and filed upon the said property on the 26th day of September, 1906, and paid taxes thereon from the year 1911 to 1918 inclusive; that said Doner paid the aggregate sum of \$453.11 taxes during those said years. That final certificate was issued to the said Doner in April of 1919. That said land was not subject to taxation until the year 1920; that the said lands during the years from 1911 to 1918 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1911, and the 30th day of December, 1918, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$453.11.

IV.

That after the payment of the taxes by the said Doner, as above set forth, the said Doner did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of

Maricopa, but that said County refused and still refuses to repay the same or any part thereof.

[21]

THIRD CAUSE OF ACTION:

And the plaintiff for a third cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her third cause of action.

II.

That J. J. Fagan, assignor of this plaintiff, was, during the years from 1915 to 1917 inclusive, the owner of the Northeast quarter of the Southeast quarter of Section One, Township One South, Range Two East, G. & S. R. B. & Meridian; that the said Fagan entered and filed upon the said property on the 2nd day of June, 1915, and paid taxes thereon from the year 1915 to 1917 inclusive; that said Fagan paid the aggregate sum of \$308.56 taxes during those said years. That said Fagan assigned to Wm Wetzler on October 5, 1917. That said land was not subject to taxation during the years 1915, 1916 and 1917 but were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1915, and the 30th day of December, 1917, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$308.56.

IV.

That after the payment of the taxes by the said Fagan, as above set forth, the said Fagan, did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing [22] of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said County refused and still refuses to repay the same or any part thereof.

FOURTH CAUSE OF ACTION:

And the plaintiff for a fourth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her fourth cause of action.

II.

That E. Hanson, assignor of this plaintiff, was, during the years 1917 to 1920 inclusive, the owner of the Northeast quarter of the Southwest quarter of Section One, Township One South, Range Two East, G. & S. R. B. & Meridian; that the said Hanson entered and filed upon the said property on the 2nd day of May, 1917, and paid taxes thereon from the year 1917 to 1920 inclusive; that final certificate was issued to the said Hanson January 19, 1920. That said land was not subject to taxation until the year 1921; that the said lands during the years from 1917 to 1920 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1917, and the 30th day of December, 1920, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$418.70.

IV.

That after the payment of the taxes by the said Hanson, as above set forth, the said Hanson did, for valuable consideration [23] sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous

to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said County refused and still refuses to repay the same or any part thereof.

FIFTH CAUSE OF ACTION:

And the plaintiff for a fifth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her fifth cause of action.

II.

That Frank Irving, assignor of this plaintiff, was, during the years 1915 to 1918 inclusive, the owner of the Southwest quarter of the Northwest quarter of Section twenty-four, Township One North, Range One East, G. & S. R. B. & Meridian; that the said Irving entered and filed upon the said property on the 9th day of October, 1915, and paid taxes thereon from the year 1915 to 1918 inclusive; that final certificate was issued to said Irving July 2, 1918. That said land was not subject to taxation until the year 1919; that the said lands during the years from 1915 to 1918 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1915, and the 30th day of December, 1918, this assignor, upon

demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$58.75. [24]

IV.

That after the payment of the taxes by the said Irving, as above set forth, the said Irving did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said County refused and still refuses to repay the same or any part thereof. -

SIXTH CAUSE OF ACTION:

I.

And the plaintiff for a sixth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her sixth cause of action.

II.

That L. Irving, assignor of this plaintiff, was, during the years 1915 to 1917 inclusive, the owner of the Northwest quarter of the Southwest quarter of Section twenty-four, Township One North,

Range One East, G. & S. R. B. & Meridian; that the said Irving entered and filed upon the said property on the 17th day of May, 1907, and paid taxes thereon from the year 1915 to 1917 inclusive; that final certificate was issued to said Irving on July 2, 1918. That said land was not subject to taxation until the year 1919; that the said lands during the years from 1915 to 1918 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1915, and the 30th [25] day of December, 1918, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$72.81.

IV.

That after the payment of the taxes by the said Irving, as above set forth, the said Irving did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said County refused and still refuses to repay the same or any part thereof.

SEVENTH CAUSE OF ACTION:

I.

And the plaintiff for a seventh cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her seventh cause of action.

II.

That Geo. Lutgerding, assignor of this plaintiff, was, during the years 1918 to 1921, inclusive, the owner of the Southeast quarter of the Northeast quarter of Section One, Township One South, Range Two East, G. & S. R. B. & Meridian; that the said Lutgerding entered and filed upon the said property on the 23rd day of December, 1918, and paid taxes thereon from the year 1918 to 1921 inclusive; that final certificate was issued to said Lutgerding on the 11th day of October, 1921. That said [26] land was not subject to taxation until the year 1922; that the said lands during the years from 1918 to 1921 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1918, and the 30th day of December, 1921, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer

of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$538.32.

IV.

That after the payment of the taxes by the said Lutgerding, as above set forth, the said Lutgerding did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said County refused and still refuses to repay the same or any part thereof.

EIGHTH CAUSE OF ACTION:

I.

And the plaintiff for a *seventh* cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her eighth cause of action.

II.

That Mabel Lutgerding, assignor of this plaintiff, was, during the years 1918 to 1923 inclusive, the owner of the Northeast quarter of the Northeast quarter of Section One, Township [27] One South, Range Two East, G. & S. R. B. & Meridian; that

the said Lutgerding entered and filed upon the said property on the 23rd day of December, 1918, and paid taxes thereon from the year 1918 to 1923 inclusive; that said Mabel Lutgerding assigned to Mary Beck on October 22, 1923; that said land was not subject to taxation until the year 1928; that the said lands during the years from 1918 to 1923 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1918, and the 30th day of December, 1923, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$360.40.

IV.

That after the payment of the taxes by the said Mabel Lutgerding, as above set forth, the said Lutgerding did, for valuable consideration, sell, transfer and assign to this plaintiff all her right of action and right, title and interest in and to said account and the taxes paid by her as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said County refused and still refuses to repay the same or any part thereof.

NINTH CAUSE OF ACTION:

I.

And the plaintiff for a ninth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her ninth cause of action. [28]

II.

That Mrs. R. J. McDougall, assignor of this plaintiff, was, during the years 1918 to 1921 inclusive, the owner of the Northwest quarter of the Northeast quarter of Section One, Township One South, Range Two East, G. & S. R. B. & Meridian; that the said Mrs. McDougall entered and filed upon the said property on the 23rd day of December, 1918, and paid taxes thereon from the year 1918 to 1921 inclusive; that said Mrs. R. J. McDougall received the final certificate to said land on June 14, 1921; that said land was not subject to taxation until the year 1922; that the said lands during the years from 1918 to 1922 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1918, and the 30th day of December, 1921, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of

said County, paid to said Treasurer as taxes upon said homestead land the sum of \$538.32.

IV.

That after the payment of the taxes by the said Mrs. R. J. McDougall, as above set forth, the said Mrs. McDougall did, for valuable consideration, sell, transfer and assign to this plaintiff all her right of action and right, title and interest in and to said account and the taxes paid by her as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said County refused and still refuses to repay the same or any part thereof. [29]

TENTH CAUSE OF ACTION:

I.

And the plaintiff for a tenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her tenth cause of action.

II.

That Thos. J. Rice, assignor of this plaintiff, was, during the years 1916 to 1919 inclusive, the owner of the Southeast quarter of the Southwest quarter of Section twenty-eight, Township One North, Range Three East, G. & S. R. B. & Meridian; that

the said Rice entered and filed upon the said property on the 1st day of August, 1916, and paid taxes thereon from the year 1916 to 1919 inclusive; that the final certificate was issued to said Rice on the 5th day of March, 1919; that said land was not subject to taxation until the year 1920.

That Thos. J. Rice, assignor of this plaintiff, was, during the years 1908 to 1919 inclusive, the owner also of the Southwest quarter of the Southwest quarter of Section twenty-eight Township One North, Range Three East, G. & S. R. B. & Meridian; that the said Rice entered and filed upon the said property on the 13th day of February, 1908, and paid taxes thereon from the year 1913 to 1919 inclusive; that the final certificate was issued to said Rice on the 28th day of April, 1919; that said land was not subject to taxation until the year 1920.

That said lands during the years from 1908 to 1919 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1913, and the 30th [30] day of December, 1919, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead lands the sum of \$1047.08.

IV.

That after the payment of the taxes by the said Thos. J. Rice, as above set forth, the said Rice did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

ELEVENTH CAUSE OF ACTION :

And the plaintiff for an eleventh cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this her eleventh cause of action.

II.

That Wm. R. Roberson, assignor of this plaintiff, was, during the years 1908 to 1917 inclusive, the owner of the Northeast quarter of the Southwest quarter of Section One, Township One South, Range Two East, G. & S. R. B. & Meridian; that the said Roberson entered and filed upon the said property on the 13th day of January, 1908, and paid taxes thereon from the year 1914 to 1916 inclusive; that said Roberson assigned to E. Hanson

on the 2nd day of May, 1917; that said land was not subject to taxation during the years 1914, 1915 and 1916; that said lands during [31] the years from 1914 to 1916 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1914, and the 30th day of December, 1916, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead lands the sum of \$108.41.

IV.

That after the payment of the taxes by the said Wm. R. Roberson, as above set forth, the said Roberson did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

TWELFTH CAUSE OF ACTION:

I.

And the plaintiff for a twelfth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in

the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this her twelfth cause of action.

II.

That Richard Rosser, assignor of this plaintiff, was, during the years 1910 to 1925 inclusive, the owner of the North half of the Southeast quarter of Section thirty-three, Township One South, Range Two East, G. & S. R. B. & Meridian; that the said [32] Rosser entered and filed upon the said property in 1910 and paid taxes thereon from the year 1915 to 1925 inclusive; that final certificate was issued to said Rosser on September 19, 1925; that said land was not subject to taxation until the year 1926; that said lands during the years from 1910 to 1926 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1915, and the 30th day of December, 1925, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$1233.32.

IV.

That after the payment of the taxes by the said Richard Rosser, as above set forth, the said Rosser did, for valuable consideration, sell, transfer and

assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

THIRTEENTH CAUSE OF ACTION:

I.

And the plaintiff for a thirteenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this her thirteenth cause of action. [33]

II.

That Ernest T. Smith, assignor of this plaintiff, was, during the years from 1912 to 1918 inclusive, the owner of the Northwest quarter of the Southwest quarter of Section One, Township One South, Range Three East, G. & S. R. B. & Meridian; that the said Smith entered and filed upon the said property on the 24th day of September, 1912, and paid taxes thereon from the year 1915 to 1918 inclusive; that final certificate was issued to said Smith on May 1, 1918; that said land was not subject to taxation until the year 1919; that said lands during the

years from 1912 to 1919 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1915, and the 30th day of December, 1918, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$301.58.

IV.

That after the payment of the taxes by the said Ernest T. Smith, as above set forth, the said Smith did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

FOURTEENTH CAUSE OF ACTION:

I.

And the plaintiff for a fourteenth cause of action against [34] the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose

of brevity and convenience makes the same part of this her fourteenth cause of action.

II.

That W. S. Stevens, assignor of this plaintiff, was, during the years from 1908 to 1919 inclusive, the owner of the South half of the Southwest quarter of Section twenty-eight, Township One North, Range Three East, G. & S. R. B. & Meridian; that the said Stevens entered and filed upon the said property on October 15, 1908, and paid taxes thereon from the year 1913 to 1919 inclusive; that final certificate was issued to said Stevens on April 28, 1919; that said land was not subject to taxation until the year 1920; that said lands during the years from 1908 to 1920 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1913, and the 30th day of December, 1919, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$1448.70.

IV.

That after the payment of the taxes by the said W. S. Stevens, as above set forth, the said Stevens did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and

right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof. [35]

FIFTEENTH CAUSE OF ACTION:

And the plaintiff for a fifteenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her fifteenth cause of action.

II.

That James Willis, assignor of this plaintiff, was, during the years from 1917 to 1921 inclusive, the owner of the East half of the Southeast quarter of the Northwest quarter of Section twenty-four, Township One North, Range One East, G. & S. R. B. & Meridian; that the said Willis entered and filed upon the said property on July 2, 1917, and paid taxes thereon from the year 1917 to 1921 inclusive; that final certificate was issued to said Willis on February 24, 1921; that said land was not subject to taxation until the year 1922; that said lands during the years from 1917 to 1922 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1917, and the 30th day of December, 1921, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$467.01.

IV.

That after the payment of the taxes by the said James Willis, as above set forth, the said Willis did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to [36] the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said County refused and still refuses to repay the same or any part thereof.

SIXTEENTH CAUSE OF ACTION:

And the plaintiff for a sixteenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her sixteenth cause of action.

II.

That Maude Willis, assignor of this plaintiff, was, during the years from 1910 to 1924 inclusive, the owner of the West half of the Southwest quarter of Section twenty-four, Township One North, Range One East, Gila and Salt River Base and Meridian; that said Maude Willis entered and filed upon the said property on April 22, 1910, and paid taxes thereon from *the* 1917 to 1924 inclusive; that final certificate was issued to said Maude Willis on February 23, 1924; that said land was not subject to taxation until the year 1925; that said lands during the years from 1910 to 1925 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1917, and the 30th day of December, 1924, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$2267.50.

IV.

That after the payment of the taxes by the said Maude [37] Willis, as above set forth, the said Maude Willis did, for valuable consideration, sell, transfer and assign to this plaintiff all her right of action and right, title and interest in and to said account and the taxes paid by her as aforesaid; that previous to the bringing of this action this

plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

SEVENTEENTH CAUSE OF ACTION:

And the plaintiff for a seventeenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her seventeenth cause of action.

II.

That J. R. Whitton, assignor of this plaintiff, was, during the years from 1918 to 1923 inclusive, the owner of Lot Six, Southeast quarter of Section Thirty-three, Township One North, Range Three East, G. & S. R. B. & Meridian; that said Whitton entered and filed upon the said property on July 26, 1918, and paid taxes thereon from the year 1918 to 1923 inclusive; that final certificate was issued to said Whitton on December 15, 1923; that said land was not subject to taxation until the year 1924; that said lands during the years from 1918 to 1924 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1918, and the 30th day of December, 1923, this assignor, upon

demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said [38] homestead lands the sum of \$1391.88.

IV.

That after the payment of the taxes by the said J. R. Whitton, as above set forth, the said Whitton did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

EIGHTEENTH CAUSE OF ACTION:

And the plaintiff for an eighteenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her eighteenth cause of action.

II.

That Frank Whitton, assignor of this plaintiff, was, during the years from 1915 to 1920 inclusive, the owner of the South half of the Southeast quarter of Section thirty-three, Township One North,

Range Three East, G. & S. R. B. & Meridian; that said Whitton entered and filed upon the said property in June, 1915, and paid taxes thereon from the year 1915 to 1920 inclusive; that final certificate was issued to said Whitton on March 6, 1920; that said land was not subject to taxation until the year 1921; that said land during the years from 1915 to 1921 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1915, and the 30th day of [39] December, 1920, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$246.25.

IV.

That after the payment of the taxes by the said Frank Whitton, as above set forth, the said Whitton did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

NINETEENTH CAUSE OF ACTION:

And the plaintiff for a nineteenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her nineteenth cause of action.

II.

That Wm Wetzler, assignor of this plaintiff, was, during the years from 1917 to 1925 inclusive, the owner of the Northeast quarter of the Southeast quarter of Section One, Township One South, Range Two East, G. & S. R. B. & Meridian; that said Wetzler entered and filed upon the said property on October 5, 1917, and paid taxes thereon from the year 1918 to 1925 inclusive; that final certificate issued to said Wetzler on January 2, 1925; that said land was not subject to taxation until the year 1926; that said land during the years from 1918 to 1925 were a reclamation homestead and as such belonged to the United States of America. [40]

III.

That between the 1st day of January, 1917, and the 30th day of December, 1925, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$2781.31.

IV.

That after the payment of the taxes by the said Wm Wetzler, as above set forth, the said Wetzler did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

TWENTIETH CAUSE OF ACTION:

And the plaintiff for a twentieth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her twentieth cause of action.

II.

That Fred W. Bassler, assignor of this plaintiff, was, during the years from 1915 to 1930 inclusive the owner of the Northeast quarter of the Southeast quarter of Section thirty-two, Township One North, Range four East, G. & S. R. B. & Meridian; that said Bassler entered and filed upon the said property on May 15, 1915, and paid taxes thereon from the year 1915 to 1928; that final certificate issued to said Bassler on December 16, 1930; that said

[41] land was not subject to taxation until the year 1928; that said land during the years from 1915 to 1930 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1915, and the 30th day of December, 1928, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$630.24.

IV.

That after the payment of the taxes by the said Fred W. Bassler, as above set forth, the said Bassler did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

TWENTY-FIRST CAUSE OF ACTION:

And the plaintiff for a twenty-first cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity

and convenience makes the same a part of this her twenty-first cause of action.

II.

That Maggie Krell, assignor of this plaintiff, was, during the years from 1917 to 1919 inclusive the owner of the Southeast [42] quarter of the Northwest quarter of Section thirty-one, Township one north, Range three east, G. & S. R. B. & Meridian; that said Maggie Krell entered and filed upon the said property on December 8, 1917, and paid taxes thereon from the year 1917 to 1919 inclusive; that final certificate issued to said Maggie Krell on August 28, 1919; that said land was not subject to taxation until the year 1920; that said land during the years from 1917 to 1920 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1917, and the 30th day of December, 1919, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$352.13.

IV.

That after the payment of the taxes by the said Maggie Krell, as above set forth, the said Maggie Krell did, for valuable consideration, sell, transfer and assign to this plaintiff all her right of action

and right, title and interest in and to said account and the taxes paid by her as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

WHEREFORE, plaintiff prays judgment against said defendant for the further sum of Seventeen Thousand Two Hundred Two and 47/100 Dollars (\$17,202.47), together with interest thereon at the legal rate from the time of payment thereof until the rendition of judgment herein, together with costs and disbursements herein [43] expended, and for such other and further relief as to the court may seem just and equitable.

OLIVIA ROSEVEARE

Plaintiff

D. P. SKOUSEN

M. L. OLLERTON

Attorneys for Plaintiff.

Copy of the within received this 19th day of November, 1931.

DUDLEY W. WINDES

Attorney for defendant.

[Endorsed]: Filed Nov 19 1931 [44]

[Title of Court and Cause.]

DEFT'S SPECIAL DEMURRER TO
AMENDED COMPLAINT

COMES NOW the defendant in the above entitled cause, by its counsel, and specially demurs to the amended complaint the plaintiff filed herein, upon the following grounds:

I.

The defendant specially demurs to said amended complaint and to each separate cause of action therein set forth, upon the ground and for the reason that it appears from the face of said amended complaint that each of said causes of action set out in said amended complaint, is barred by the statute of limitations of the State of Arizona, and particularly by Sec. 2059, Revised Code of Arizona, 1928, in that none of the causes of actions set forth in said amended complaint were commenced and prosecuted within two years after the same accrued.

II.

The defendant specially demurs to said amended complaint and to each separate cause of action therein set forth, upon the ground and for the reason that it appears from the face of said amended complaint that each of said causes of action set out in said amended complaint, is barred by the statute of limitations of the State of Arizona, and particularly by Sec. 2060, Revised Code of Arizona, 1928, in that none of the causes of actions set forth in

said amended complaint were commenced and prosecuted within three years after the same accrued.

[45]

III.

The defendant specially demurs to said amended complaint and to each separate cause of action therein set forth, upon the ground and for the reason that it appears from the face of said amended complaint that each of said causes of action set out in said amended complaint, is barred by the statute of limitations of the State of Arizona, and particularly by Sec. 2063, Revised Code of Arizona, 1928, in that none of the causes of actions set forth in said amended complaint were commenced and prosecuted within four years after the same accrued.

WHEREFORE, defendant prays that plaintiff's amended complaint be dismissed.

Dated this 27 day of November, 1931.

DUDLEY W. WINDES

Attorney for Defendant

K. BERRY PETERSON

Attorney General

CHARLES L. STROUSS

Assistant Attorney General

Of Counsel [46]

The defendant at the hearing of this demurrer, will rely upon the authorities set forth in the Memorandum

dum Brief heretofore filed in support of defendant's special demurrers to the complaint.

DUDLEY W. WINDES

Attorney for Defendant

K. BERRY PETERSON

Attorney General

CHARLES L. STROUSS

Assistant Attorney General

Of Counsel

Received copy of the within this 27 day of November, 1931

D. P. SKOUSEN

Attorney for Pltf.

[Endorsed]: Filed Nov 27 1931 [47]

Minute Entry of
MONDAY, DECEMBER 7, 1931

October 1931 Term

At Phoenix

HONORABLE F. C. JACOBS, United States District Judge, presiding

[Title of Cause.]

Defendant's Special Demurrers to Plaintiff's Amended Complaint come on regularly for hearing this day.

No appearance is made on behalf of the parties herein.

Whereupon, IT IS ORDERED that said Defendant's Special Demurrers to Plaintiff's Amended

Complaint be continued and reset for hearing Monday, December 14, 1931, at the hour of ten o'clock A. M. [48]

Minute Entry of
MONDAY, DECEMBER 14, 1931

October 1931 Term

At Phoenix

HONORABLE F. C. JACOBS, United States District Judge, presiding

[Title of Cause.]

Defendant's Special Demurrers to Complaint and Defendant's Special Demurrers to Plaintiff's Amended Complaint, come on regularly for hearing this day.

D. P. Skousen, Esquire, appears as Counsel for Plaintiff, and on motion of said counsel for plaintiff,

IT IS ORDERED that M. L. Ollerton, Esquire, be entered herein as associate counsel for plaintiff.

Dudley W. Windes, Esquire, and Charles L. Strouss, Esquire, appear as counsel for the Defendant.

It appearing to the Court that said Defendant's Special Demurrers to Plaintiff's Amended Complaint supersede said Defendant's Special Demurrers to Complaint,

IT IS ORDERED that said Defendant's Special Demurrers to Complaint be stricken from the Law and Motion Calendar.

Argument on said Defendant's Special Demurrers to Plaintiff's Amended Complaint is now had by respective counsel, and

IT IS ORDERED that said Defendant's Special Demurrers to Plaintiff's Amended Complaint be submitted and by the Court taken under advisement, and that the defendant have ten days from and after this date within which to answer Plaintiff's Brief heretofore filed herein, and that Plaintiff have five days thereafter within which to Reply. [49]

Minute Entry of
THURSDAY, JANUARY 28, 1932

October 1931 Term

At Phoenix

HONORABLE F. C. JACOBS, United States District Judge, presiding

[Title of Cause.]

Defendant's Special Demurrers to Plaintiff's Amended Complaint having heretofore been argued, submitted and by the Court taken under advisement, and the Court having duly considered the same, and being fully advised in the premises,

IT IS ORDERED that said Special Demurrers to Plaintiff's Amended Complaint be, and the same are hereby overruled, and that an exception be entered on behalf of the Defendant. [50]

[Title of Court and Cause.]

ANSWER TO AMENDED COMPLAINT

COMES NOW, the defendant in the above entitled action and by way of answer to plaintiff's amended complaint, admits, denies and alleges as follows:

I.

Answering plaintiff's first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth and twenty-first causes of action, the defendant alleges that said causes of action and each and every one of them, are barred by the statute of limitations of the State of Arizona, and particularly by Section 2058, Revised Code of Arizona, 1928, in that said causes of action or either thereof were not commenced and prosecuted, and neither one thereof was commenced and prosecuted, within one year after the same accrued.

II.

Answering plaintiff's first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, and twenty-first causes of action, the defendant alleges that said causes of action and each and every one of them, are barred by the statute of limitations of the State of Arizona, and particularly by Section

2059, Revised Code of Arizona, 1928, in that said causes of action, or either thereof, were not commenced and prosecuted, and neither one thereof was commenced [51] and prosecuted within two years after the same accrued.

III.

Answering plaintiff's first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth and twenty-first causes of action, the defendant alleges that said causes of action and each and every one of them, are barred by the statute of limitations of the State of Arizona, and particularly by Section 2060, Revised Code of Arizona, 1928, in that said causes of action or either thereof, were not commenced and prosecuted, and neither one thereof was commenced and prosecuted within three years after the same accrued.

IV.

Answering plaintiff's first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth and twenty-first causes of action, the defendant alleges that said causes of action and each and every one of them, are barred by the statute of limitations of the State of Arizona, and particularly by Section 2063, Revised Code of Arizona, 1928, in that said causes of action, or either thereof, were not com-

menced and prosecuted, and neither one thereof was commenced and prosecuted within four years after the same accrued.

As a further and separate defense to plaintiff's amended complaint, the defendant denies generally and specifically, each and every material fact alleged and set up in said amended complaint, and denies each and every material fact alleged and set up in each and every separate cause of action set forth in said amended complaint.

WHEREFORE, defendant prays that plaintiff take nothing by his said causes of action, and that said amended complaint be dismissed and [52] that defendant have judgment for its costs.

Dated at Phoenix, Arizona, this 4th day of February, A.D. 1932.

DUDLEY W. WINDES
Attorney for Defendant

K. BERRY PETERSON
Attorney General

CHARLES L. STROUSS
Assistant Attorney General
Of Counsel

Copy of the within received this 4th day of February, 1932.

D. P. SKOUSEN and
M. L. OLLERTON R. R.
Attys for Plaintiff

[Endorsed]: Filed Feb 4 1932 [53]

Minute Entry of
THURSDAY, JANUARY 5, 1933

October 1932 Term

At Phoenix

HONORABLE F. C. JACOBS, United States District Judge, presiding

[Title of Cause.]

This being the time heretofore fixed for trial setting, or other disposition, this case is now regularly called pursuant to notice to counsel. Don P. Skousen, Esquire, appears as counsel for plaintiff. No appearance is made on behalf of the defendant.

Upon motion of said counsel for plaintiff,

IT IS ORDERED that this case be, and the same is hereby stricken from the Calendar, and continued to be set. [54]

Minute Entry of
TUESDAY, JANUARY 31, 1933

October 1932 Term

At Phoenix

HONORABLE F. C. JACOBS, United States District Judge, presiding

[Title of Cause.]

MOTION

Comes now M. L. Ollerton, one of the attorneys in the above entitled cause, and moves the court for

an order allowing this moveant to withdraw as one of the attorneys in the above entitled cause.

M. L. OLLERTON

ORDER

The court having read the foregoing motion, IT IS HEREBY ORDERED that M. L. Ollerton, one of the attorneys in the above entitled cause, may withdraw as such attorney.

Done this 31st day of January, 1933.

F. C. JACOBS

Judge of the Federal Court. [55]

[Title of Court and Cause.]

WAIVER OF JURY

Comes now Olivia Roseveare, plaintiff in the above entitled action, by her attorney, D. P. Skousen, and the County of Maricopa, Defendant in the above entitled action, by its attorney, Renz L. Jennings, and hereby waive and file this waiver to a trial by jury in the above entitled cause and request, consent and agree that the said cause may be tried before the court without a jury.

D. P. SKOUSEN

Attorney for Plaintiff

RENZ L. JENNINGS

Attorney for Defendant

[Endorsed]: Filed Feb 16 1933 [56]

Minute Entry of
MONDAY, FEBRUARY 20, 1933

October 1932 Term

At Phoenix

HONORABLE F. C. JACOBS, United States District Judge, presiding

[Title of Cause.]

M. L. Ollerton, Esquire, and D. P. Skousen, Esquire, appear as counsel for Plaintiff. No appearance is made on behalf of the defendant.

Upon motion of D. P. Skousen, Esquire,

IT IS ORDERED that the issues herein be submitted upon agreed Statement of Facts. [57]

[Title of Court and Cause.]

AMENDED AGREED STATEMENT OF FACTS

Without waiver on the part of the defendant of its demurrers heretofore filed, and/or its exceptions to the rulings of the Court thereon, but expressly reserving and insisting upon the same, it is hereby agreed by and between Olivia Roseveare, plaintiff, D. P. Skousen, attorney for plaintiff, and the County of Maricopa, defendant, by its attorney, Renz L. Jennings, that the following statement of facts are the facts in the above entitled cause.

I.

That the plaintiff, Olivia Roseveare, is a resident of Madison, State of Wisconsin. That the plaintiff

entered upon the Southeast Quarter of Section 33, and the Southwest quarter of the Southeast quarter of Section 28, Township One North, Range Three East of [58] the G. & S. R. B. & Meridian as a homestead in 1907; that the final certificate was issued in 1919 in October; that the County of Maricopa assessed the said above described lands, beginning in the year 1911 and continued each year thereafter to and including the year 1919; that the plaintiff paid taxes beginning in 1911 and continuing each year thereafter to and including the year 1919 under an assessment levied by the County of Maricopa, State of Arizona, and after the County of Maricopa by its proper officer or officers had threatened to sue the plaintiff if she did not pay the said taxes as levied; that the plaintiff has demanded of the County of Maricopa the return of the said moneys in the sum of \$1301.15 paid by her as taxes with interest thereon from the dates of payment thereof to the date of the refund by the said County.

II.

That the plaintiff, Olivia Roseveare, is the alleged assignee of a large number of similar claims to that stated in paragraph I, which claims are as follows, to-wit:

R. H. Alexander, assignor, entered and filed upon 100 acres of the Southwest quarter of Section Nine, One South, Four East of the G. & S. R. B. & Meridian, in 1910; final certificate issued August 6, 1929; taxes assessed and collected for years 1915 to 1921

inclusive in the sum of \$159.62 were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon. [59]

F. W. and Maude Bassler, assignors, entered and filed upon the Northeast quarter of the Southeast quarter of Section 32, One North, Four East of the G. & S. R. B. & Meridian, May 5, 1915; final certificate issued December 16, 1930; taxes assessed and collected for years 1916 and 1917 in the sum of One Hundred Thirty-seven and 01/100 Dollars (\$137.01) were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

Wm. S. Doner, assignor, entered and filed upon the North half of the Northeast quarter of the Southwest quarter of the Southwest quarter of Section 15, One north, Three East and the North half of the northeast quarter of the southwest quarter of the southwest quarter of Section 28, One north, Three east, of the G. & S. R. B. & Meridian, in September, 1906; final certificate issued in April, 1918; taxes assessed and collected for years 1911 to and including 1918 in the sum of One Hundred Six and 96/100 (\$106.96) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

E. T. Hanson and Wm. Roberson, assignors, entered and filed upon the northeast quarter of the southwest quarter of Section One, One south, Two east of the G. & S. R. B. & Meridian, January 13, 1908; final certificate issued January 19, 1920; taxes assessed and collected for 1915 to 1920 inclusive in the sum of Four Hundred Five and [60] 50/100 (\$405.50) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

Alex Krell, assignor, entered and filed upon the Southeast quarter of the Northwest quarter of Section 31, One north, Three east of the G. & S. R. B. & Meridian, December 8, 1917; final certificate issued August 28, 1919; taxes assessed and collected for year 1919 in the sum of One Hundred Six and 40/100 (\$106.40) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

Geo. Lutgerding, assignor, entered and filed upon the Southeast quarter of the Northeast quarter of Section One, One south, Two east, of the G. & S. R. B. & Meridian, December 23, 1918; final certificate issued October 11, 1921; taxes assessed and collected for years 1919 to 1921 inclusive in the sum of Five Hundred Nine and 98/100 (\$509.98) Dollars were paid under protest during the year for which they were assessed; that demand has been made on

the County of Maricopa for the return of said money so paid with interest thereon.

Mabel Lutgerding, assignor, entered and filed upon the Northeast quarter of the Northeast quarter of Section One, One south, Two east, of the G. & S. R. B. & Meridian, December 23, 1918; final certificate issued June 11, 1928; taxes assessed and collected for years 1919 to 1921 inclusive in the sum of Five Hundred Eight and [61] 56/100 (\$508.56) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

Mrs. R. J. McDougal, assignor, entered and filed upon the Northwest quarter of the Northeast quarter of Section One, One south, Two east, of the G. & S. R. B. & Meridian, December 23, 1918; final certificate issued June 14, 1921; taxes assessed and collected for years 1919 to 1921 inclusive in the sum of Four Hundred Ninety-one and 09/100 (\$491.09) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

R. H. McElhany, assignor, entered and filed upon the Northeast quarter of the Southwest quarter of Section 28, One North, Three east, of the G. & S. R. B. & Meridian, in August, 1916; final certificate issued in April, 1919; taxes assessed and collected for years 1916 to 1919 inclusive in the sum of Three Hundred Forty and 57/100 (\$340.57) Dollars were

paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

Thomas J. Rice, assignor, entered and filed upon the Southwest quarter of Section 28, One north, Three east, of the G. & S. R. B. & Meridian, February 13, 1908; final certificate issued April 28, 1919; taxes assessed and collected for years 1913 to 1919 inclusive in the sum of Six [62] Hundred Eight and 55/100 (\$608.55) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

Mrs. Ernest T. Smith, assignor, entered and filed upon the Northwest quarter of the Southwest quarter of Section One, One south, Two east, of the G. & S. R. B. & Meridian, September 24, 1912; final certificate issued May 1, 1918; taxes assessed and collected for the year 1918 in the sum of Fifty-six and no/100 (\$56.00) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

W. S. Stevens, assignor, entered and filed upon the South half of the Southwest quarter of Section 28, One north, Three East, of the G. & S. R. B. & Meridian, October 15, 1908; final certificate issued April 28, 1919; taxes assessed and collected for the

years 1916 to 1919 inclusive in the sum of Four Hundred Fifty-nine and 08/100 (\$459.08) were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

James Willis, assignor, entered and filed upon the East half of the Southeast quarter of the Northwest quarter of Section 24, One north, One east, of the G. & S. R. B. & Meridian, July 2, 1917; final certificate issued February 2, 1921; taxes assessed and collected for years 1917 and 1920 in the sum of One Hundred Seventy-three and [63] 79/100 (\$173.79) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

Frank E. Whitton, assignor, entered and filed upon the South half of the Southeast quarter of Section 33, One North, Three east, of the G. & S. R. B. & Meridian, in June, 1915; final certificate issued March 6, 1920; taxes assessed and collected for years 1916 to 1919 inclusive in the sum of One Hundred Twenty-six and 55/100 (\$126.55) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

Maude Willis, assignor, entered and filed upon the West half of the Southwest quarter of Section 24, One north, One east, of the G. & S. R. B. &

Meridian, April 22, 1910; final certificate issued February 23, 1924; taxes assessed and collected for years 1919 to 1924 inclusive in the sum of Seven Hundred Eighty-one and 25/100 (\$781.25) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

J. R. Whitton and Arthur Trauscht, assignors, entered and filed on Lot 6, Southeast quarter of Section 33, One north, Three east, of the G. & S. R. B. & Meridian, July 26, 1918; final certificate issued December 15, 1923; taxes assessed and collected for years 1918 to 1923, inclusive in the sum of Nine Hundred Twenty-seven and 76/100 [64] (\$927.76) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

J. J. Fagan and Wm Wetzler, assignors, entered and filed on the Northeast quarter of the Southeast quarter of Section One, One south, Two east, of the G. & S. R. B. & Meridian, June 2, 1915, final certificate issued January 2, 1925; taxes assessed and collected for years 1915 to 1925 inclusive in the sum of Twelve Hundred Sixty-three and 24/100 (\$1263.24) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

Mrs. Sam F. Webb, assignor, entered and filed on

the Northeast quarter of Section 24, One north, One west, of the G. & S. R. B. & Meridian, February 21, 1906, final certificate issued May 27, 1920; taxes assessed and collected for years 1912 to 1917 inclusive in the sum of Six Hundred Twenty and $41/100$ (\$620.41) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

Frank C. Norwood and Jesse Norwood, assignors, entered and filed on the Northeast quarter of Section 24, One north, One west, of the G. & S. R. B. & Meridian, October 19, 1917, final certificate issued May 27, 1920; taxes assessed and collected for years 1918 to 1920 inclusive in the sum of One Thousand Seven and $22/100$ (\$1007.22) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon. [65]

J. F. Westberg, assignor, entered and filed on the Northwest quarter of the Southeast quarter of Section One, One south, Two east, of the G. & S. R. B. & Meridian, June 2, 1912, final certificate issued March 24, 1934; taxes assessed and collected for years 1916 to 1933 inclusive in the sum of Two Thousand Eight Hundred Thirty-three and $63/100$ (\$2833.63) Dollars were paid under protest during the year for which they were assessed; that demand has been made on the County of Maricopa for the return of said money so paid with interest thereon.

III.

That the total taxes paid to the County of Maricopa by the plaintiff and all of her assignors is the sum of \$13,024.32; that the plaintiff has demanded of the County of Maricopa that this said sum, with interest thereon from the dates of payment thereof, be returned to the plaintiff; that the County of Maricopa has refused and still refuses to pay back to this plaintiff the said sum of \$13,024.32.

D. P. SKOUSEN

Attorney for Plaintiff

RENZ JENNINGS

County Attorney

CHARLES L. STROUSS

Assistant Attorney General [66]

[Title of Court and Cause.]

STIPULATION

IT IS HEREBY STIPULATED by and between D. P. Skousen, attorney for the plaintiff in the above entitled cause, and Arthur T. LaPrade, attorney general of the State of Arizona, and Renz L. Jennings, county attorney of Maricopa County, Arizona, attorneys for and on behalf of the defendant,

That the Second Amended Complaint and the Agreed Statement of Facts, setting forth the claim of the plaintiff as the first cause of action and the assigned claims as subsequent causes of action, may

be filed without a further order of the above entitled court;

That the assignments of the various assignors to Olivia Roseveare, the plaintiff, may be filed as evidence of the transfer of the various claims.

That upon the defendant's consent to the court's rendering judgment in favor of the plaintiff on her first cause of action and including all the other subsequent causes of action in the sum of \$13,024.32, the plaintiff will waive [67] and does waive all interest accruing on the said sum and sums of money paid by the plaintiff and her assignors as taxes back of the years 1931 or otherwise three years interest.

Signed this day of August, 1934.

D. P. SKOUSEN

Attorney for Plaintiff

RENZ JENNINGS

County Attorney

.....
Attorney General

[Endorsed]: Filed Sep 17 1934 [68]

Minute Entry of

TUESDAY, SEPTEMBER 18, 1934

March 1934 Term

At *Prescott*

HONORABLE F. C. JACOBS, United States District Judge, presiding

[Title of Cause.]

Pursuant to Stipulation heretofore filed herein,

IT IS ORDERED that Plaintiff be permitted to file Second Amended Complaint in accordance with said stipulation. [69]

[Title of Court and Cause.]

SECOND AMENDED COMPLAINT

COMES NOW the plaintiff by her attorney, D. P. Skousen, and for cause of action against the defendant, alleges:

FIRST CAUSE OF ACTION:

I.

That the plaintiff is a resident of Madison, State of Wisconsin; that the defendant is now, and at all times hereinafter mentioned, was a municipal corporation and a body politic corporate, and one of the legal divisions of the State of Arizona, to wit, one of the Counties in which the State of Arizona has been, and is divided.

II.

That this is an action at law brought to recover taxes illegally assessed and collected upon United States homestead lands, filed upon and entered by the plaintiff and various sundry other persons hereinafter named, by the County of Maricopa, State of Arizona.

III.

That this action involves Clause One (1) Section Two (2), and Clause Two (2) Section Three (3) Article Four (4) of the United States Constitution, and Section One (1) of the Fourteenth [70] (14) Amendment thereof, and Clauses One and Eighteen (18) Section Eight (8) Article One (1) and Paragraph Two (2) Article Six (6) of said United States Constitution; and laws enacted by the Congress of the United States in pursuance of said constitutional provisions relating to the disposition and sale of public lands, and defining the rights, privileges, and immunities of homesteaders deriving title from the United States Government; and involves also the right of the County of Maricopa to appropriate property of homesteaders on United States Public Lands without due process of law, and the denial to said homesteaders of the equal protection of the law, and the construction, application and enforcement of the Statutes of the State of Arizona in contravention of the Constitution and laws of the United States.

IV.

That on or about the year 1872, the land and premises hereinafter described as being in Maricopa County, State of Arizona, then the Territory of Arizona, became subject to entry under the public land laws of the United States, and among others subject to entry under the General Homestead Law

as provided by the Act of May 20, 1862, and Act amendatory thereof and supplementary thereto.

That under and by virtue of said Act of May 20, 1862, and acts amendatory thereof and supplementary thereto, the Secretary of the Interior Department of the United States Government was and is authorized to perform any and all acts, and to make such rules and regulations as may be necessary or proper for the purpose of carrying out the provisions of said Acts.

That pursuant to said authority the Secretary of the Interior prescribed rules and regulations relating to homestead entries under said general homestead law under the title of "Suggestions to Homesteaders and persons desiring to make Homestead [71] Entries", which said regulations are hereby referred to and made part hereof as fully and to all intents and purposes as if incorporated herein.

That said Acts, rules and regulations provide, among other things:

That every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the Naturalization Laws, shall be entitled to enter one quarter section or a less quantity of unappropriated public lands, to be selected in and be in conformity with the legal subdivisions of the public lands, by applying to enter said lands and making and subscribing before a proper officer and in a proper land office of the United States an affi-

davit showing that he or she is qualified to make said entry.

Every person making a homestead entry under said public land laws and regulations is required, among other things, to establish a residence upon the tract of land entered within six months after the date of entry, and maintain a residence thereon for a period of not less than three years, and to cultivate said land for a period of at least two years; to submit final proof within five or seven years from date of entry as to residence, cultivation and improvements, first giving notice of the time and place for submission of final proof, as required by laws and regulations.

V.

That thereafter the said public land laws were further amended and supplemented by the Act of June 17, 1902, commonly known as the "Reclamation Act."

That said Reclamation Act, and Acts amendatory thereof and supplementary thereto, provided for the withdrawal of public lands [72] from all forms of entry except under homestead laws, and except when subject to the provisions, limitations, charges, terms and conditions of said Reclamation Act and acts amendatory thereof and supplementary thereto.

That under and by virtue of said Reclamation Act and acts amendatory thereof and supplementary thereto, the Secretary of the Interior was and is authorized to perform any and all acts and to make

such rules and regulations as may be necessary or proper for the carrying out of the provisions of said acts.

That pursuant to said authority the Secretary of the Interior, upon the passage of said acts, prescribed rules and regulations relating to reclamation homestead entries within reclamation projects of the United States in a general circular known as "General Reclamation Circular", which said regulations are referred to and made part hereof as fully and to all intents and purposes as if incorporated herein.

That under said Reclamation Act and amendments and supplements thereto, and the rules and regulations prescribed thereunder, the Secretary of the Interior Department of the United States Government is authorized and empowered to determine the area of lands for which one person may obtain title under said Acts and regulations in each and every reclamation project.

That said entry is subject to re-adjustment by said Secretary of the Interior, and that said Secretary of the Interior is not required to confine any Farm Unit established by him to the limits of any entry theretofore made, but may combine any legal subdivision thereof with any contiguous tract lying outside of said entry.

That homestead entrymen within reclamation projects are precluded from making final proof and from receiving final certificate or patent until said Secretary of the Interior shall have [73] deter-

mined the Farm Unit for such reclamation project.

That each homestead entryman under said reclamation act is required to confirm his entry to such Farm Unit as may be established by the said Secretary of the Interior.

That in addition to the acts and things required of homestead entrymen under the General Homestead Law, homestead entrymen of lands lying in irrigation projects are required to clear the land, entered by or assigned to them, of brush, trees and other incumbrances, to provide the same with sufficient laterals for its effective irrigation, to grade the same and put it in proper condition for irrigation and crop growth, to plant, irrigate and cultivate during at least two years next preceding the time of filing the Final Affidavit, hereinafter mentioned, at least one-half of the irrigable area of his entry, and to grow satisfactory crops thereon.

That under said reclamation acts and the regulations no final certificate can be issued until the doing of all the things enumerated under said acts and regulations, particularly the acts and things herein mentioned.

That in addition to the proof required under the general homestead laws of the United States, homestead entrymen upon homesteads within any reclamation project are required, as appears from said acts and regulations and Form of Notice of acceptance of Proof of Homestead residence issued by the U. S. Land Office officials, to submit to the United States Land Office, in which such reclamation project is located, an affidavit, corroborated by

two witnesses, showing that the land entered by him, or assigned to him, has been cleared of brush, trees, and other incumbrances, provided with sufficient laterals for its effective irrigation, graded and otherwise put in proper condition for irrigation and crop growth, planted, irrigated and cultivated, and [74] during at least two years next preceding the date of the filing of final affidavit that satisfactory crops have been grown on at least one-half of the irrigable area thereof.

That said entryman is further required, before the issuance of final certificate, to pay to the Land Office Officials of the proper land office the sum of \$1.50 for each legal subdivision included in each farm unit, together with all water charges due thereon.

That upon the compliance with the requirements of said reclamation acts and regulations, final certificate is issued to said reclamation homestead entryman or assigns, reserving a lien to the United States Government for charges due for the irrigation works supplying said irrigation project with water, and that thereafter patent for said land issued to such entryman or assigns containing like reservations of a lien to the United States Government.

VI.

That on the 17th day of July, 1902, the Secretary of the Interior withdrew the lands and premises hereinafter described as lying and being in Maricopa County, State of Arizona, from all entries

except homestead entries under the Act of June 17, 1902, and acts amendatory thereof and supplementary thereto, and the regulations promulgated thereunder.

VII.

That thereafter, to wit, on the 25th day of June, 1904, said lands were incorporated in that certain reclamation project established under and by virtue of said Act of June 17, 1902, and acts amendatory thereof and supplementary thereto, and designated the "Salt River Project".

VIII.

That on the 14th day of February, 1912, the Territory of [75] Arizona was admitted into the Federal Union by Enabling Act approved June 20, 1910, whereby the lands and property belonging to the United States of America, or reserved for its use, were exempted from taxation.

IX.

That on the 18th day of January, 1917, the Secretary of the Interior Department of the United States Government established the area which might be included in any one entry or farm unit within the said Salt River Project at forty (40) acres.

X.

That on the said 18th day of January, 1917, the Secretary of the Interior Department of the United States Government established Farm Units within

the Salt River Valley under said Reclamation Act of June 17, 1902, and the regulations issued thereunder, and ordered and required all homestead entrymen within two years from the date thereof to conform their entry to such Farm Unit.

XI.

That this plaintiff and the different persons, assignors of this plaintiff, whose names are entered and set forth in the plaintiff's Additional Causes of Action, made entry of the various tracts of land described in plaintiff's said additional causes of action and insofar as required at said times and under the then existing circumstances and regulations, fully and truly in every particular complied with the requirements of said general homestead laws and said reclamation homestead laws and made entries for the respective tracts set out and described in the plaintiff's said additional causes of action, and proofs regarding the same, and assignments thereof upon the date set forth as will hereafter more fully appear, made and executed assignments of their various causes of action for valuable consideration to this plaintiff. [76]

XII.

That previous to the making and acceptance of final proof, and the payment of the moneys due the Federal Government, and the issuance of final certificate thereof, the said premises of this plaintiff and each and all the premises described in plaintiff's said additional causes of action, and each and all

thereof, under the Constitution and laws of the United States, were the property of the said United States of America, and were exempt from taxation by the State of Arizona, and all municipalities thereof.

XIII.

That after the incorporation of said lands within the Salt River Project, to wit, the 25th day of June, 1904, and the establishment of said lands as reclamation homestead entries, to wit, during the years from 1911 to and including 1933, and before the issuance of final certificate or patent to the plaintiff herein for her said land, and before the issuance of final certificate or patent to the plaintiff's assignors set out in said additional causes of action, the County authorities of Maricopa County, State of Arizona, (then the Territory of Arizona), assessed said lands of this plaintiff and all of said lands described in plaintiff's said additional causes of action for the State and County taxes for said County, Territory and State aforesaid, and thereafter the Board of Supervisors of said County and State levied taxes against the lands of this plaintiff and each and all of the various tracts of land described in plaintiff's said additional causes of action, and in the amounts and sums in said additional causes of action shown, which taxes were duly entered upon the public tax records of said County and State, and officially declared a lien upon said lands as in cases of assessments and levies upon

and against other lands individually and privately owned by others than the United States or homestead entrymen. [77]

XIV.

That thereafter each year from 1911 during the continuance of the Territorial status of said State of Arizona, and following the admission of said Territory as a State into the Federal Union up to and including 1933, said County and State authorities annually assessed and levied taxes against said premises for each and every one of said years; that said taxes were thereafter duly entered upon the public tax records of Maricopa County, State of Arizona, and by said authorities, in manner and form for the assessment and taxing of real property according to the Statutes of Arizona, officially declared to be a first lien upon said lands.

XV.

That the Statutes of the State of Arizona relating to the assessment, levy and collection of taxes including Chapter 75, Article 5, Revised Statutes of the State of Arizona, 1928, and amendments thereof and supplements thereto, applied, construed and enforced by the taxing officials of said State of Arizona and said County of Maricopa, are hereby referred to and made part hereof as though fully incorporated herein. That said Revenue Statutes of said State of Arizona provide, inter alia, particularly Paragraph 3136 of said Chapter 75, Article 7, page 732, 1928 Revised Statutes of Arizona, that

no person shall be permitted for any reason to test the validity of any tax assessed unless the amount of such tax shall have first been paid to the official whose duty it is to collect the same, together with all penalties and costs, but that after payment an action may be maintained to recover any tax illegally collected.

XVI.

That said Revenue Statutes of the State of Arizona further provide, inter alia, for the attachment, accumulation, operation and enforcement of great and onerous and cumulative penalties, [78] fees, interest and compound interest and charges against each and every taxpayer for his failure to pay taxes assessed as the same became due, which penalties, interests, charges and expenses must be paid at the time of payment of said tax originally assessed and become a lien against the property assessed in the same manner as the said original tax.

XVII.

That by reason of the premises aforesaid, the said officials of Maricopa County, including the County Assessors and County Treasurer thereof, in each and all of said years herein mentioned, claimed, alleged and declared that there was legally due and owing from this plaintiff and the various persons whose names are set forth in plaintiff's said additional causes of action, as and for taxes assessed for said years hereinbefore mentioned upon

said additional causes of action, the various sums and each and all thereof in said additional causes of action mentioned, for and as taxes alleged by said officials of said county to have been duly and legally assessed and levied against the various premises in said additional causes of action, described, and which sums and each and all thereof the County Treasurer claimed to be due from this plaintiff and each and all of said plaintiff's assignors to the County of Maricopa and State of Arizona.

That during each and all of said years, to wit, 1911 to 1933 inclusive, as aforesaid, despite the fact, as aforesaid, that final proof had not been made thereon, and despite the fact that no affidavit of proof of reclamation, improvement and irrigation relating thereto had been made, or fees paid thereon, and despite the fact than no final certificate had been issued therefor, the said County of Maricopa, acting in this regard by its duly elected officials, at all times herein required, requested, demanded and insisted upon payment, by this plaintiff and each and all of the [79] persons whose names are set forth in plaintiff's said additional causes of action, of the taxes so assessed and levied against the said premises and all thereof, described, as aforesaid, in plaintiff's said additional causes of action.

XVIII.

That this plaintiff and the various persons whose names are set forth in plaintiff's additional causes

of action at all times herein mentioned protested and objected to the taxation of their respective tracts of land for the reason that title to the same was still in the United States Government and that said County taxing authorities were without power or authority to tax lands of the character of homestead lands for which final certificate had not been issued.

That this plaintiff and the various persons whose names are set forth in said additional causes of action and many others united in forming an association to object and protest against the taxation of said lands and that they and each and all of them individually and collectively protested and objected to the assessment of their lands and the levying and collection of taxes thereon.

XIX.

That notwithstanding the protesting and objecting of this plaintiff and said various persons whose names are set forth in plaintiff's additional causes of action, the said County of Maricopa demanded that the said taxes levied as aforesaid, together with all penalties, interest and charges be paid upon said respective tracts of land, and threatened to sell the lands of this plaintiff and the lands of said various other persons for said taxes, interest and penalties; and threatened to dispossess this plaintiff and said various other persons from their respective tracts of land.

That said County of Maricopa through its duly elected officials instituted a great number of suits

for the collection of [80] taxes assessed against homesteads lands similarly situated, and brought various and numerous onerous and annoying suits against the members of said taxpayers association and the various persons whose names are set forth in said additional causes of action to enforce the levy of said taxes and to collect the same; and by public announcements, publications, declarations and proclamations announced and declared that said County of Maricopa proposed to collect each and all of said taxes and to sell each and all of said premises and to dispossess each and all of said homestead entrymen unless said taxes were paid.

XX.

That on the 12th day of December, 1919, an action was filed by one William Irwin, plaintiff, v. Vernon Wright, defendant, the latter being the treasurer and tax collector of Maricopa County, State of Arizona, and which suit was carried to the United States Supreme Court, said suit being reported in 258 United States Reports, page 219. The Supreme Court of the United States held in the said suit that the taxes so levied, assessed and collected were done so illegally; that the said suit as filed and the appeal thereof and the decision of the United States Supreme Court are made a part hereof by specific reference and are incorporated herein as if set out as a part of this complaint.

XXI.

That while the suit referred to in the preceding paragraph was being prosecuted and carried up through the various courts of the United States to the Supreme Court of the United States, the County of Maricopa, by its officers and officials, continued to collect taxes on lands that the final certificates had not yet been issued to and filed and brought many onerous, expensive and annoying suits against homestead entrymen in the Salt River Project for the collection of taxes. [81]

XXII.

That said taxes were not voluntarily paid, but on the contrary the payment of said taxes was involuntary and under protest and objection, and was paid to prevent the dispossession of this plaintiff by said County, and the consequent interference with her compliance with the United States Homestead law, to prevent a sale of her said premises and a cloud upon her title, to prevent the accumulation of great and onerous penalties and interest; that the collecting of said taxes by said County produced serious consequences and irreparable injuries to this plaintiff and her property rights; to prevent a seizure of her property and additional irreparable injury, and that said payment was made under duress, coercion and intimidation; that the same methods were used to enforce payment from, and the same injuries suffered by each of the assignors in the additional causes of action of this plaintiff.

XXIII.

That the assessing, levying and collecting of said taxes was made arbitrarily and without due process of law, and in denial of the equal protection of the law and the rights, privileges and immunities of this plaintiff and her said assignors holding said land as homesteaders and under the homestead laws of the United States, and in contravention of the constitution and laws of the United States.

That said County of Maricopa, though often requested to so do, has failed and neglected and refused and still refuses to repay this plaintiff said taxes so paid to said County Treasurer; that said refusal to repay said taxes is without any authority, equity, justice or law, and that said funds so paid as taxes are due to this plaintiff from said defendant *ex aequo et bono*. [82]

XXIV.

That this plaintiff is now, and at all times herein mentioned, was, the owner of the Southeast Quarter of Section 33, and the Southwest quarter of the Southeast quarter of Section 28, Township One North, Range Three East of the G. & S. R. B. & Meridian, which said premises were then and there a reclamation homestead for which final certificate had not been issued and was then and there the property of the United States of America. That the final certificate was not issued to this plaintiff on her said land until the 20th day of October, 1919, and the final certificate was issued to each of the

assignors of this plaintiff on the date or dates set out in the said additional causes of action.

XXV.

That between the 1st day of January, 1911, and the 30th day of December, 1919, this plaintiff, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$1301.15,

WHEREFORE, plaintiff prays judgment against said defendant for the sum of \$1301.15, together with interest thereon at the legal rate from the time of payment thereof until the rendition of judgment herein, together with costs and disbursements herein expended, and for such other and further relief as to the court may seem just and equitable.

D. P. SKOUSEN,

Attorney for Plaintiff. [83]

COMES NOW the plaintiff by her attorney, D. P. Skousen, and for additional causes of action against the defendant, alleges:

SECOND CAUSE OF ACTION:

I.

This plaintiff reiterates the statements and allegations and facts set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her second cause of action.

II.

That R. H. Alexander, assignor of this plaintiff, was, during the years from 1915 to 1918 inclusive, the owner of 100 acres of the Southwest quarter of Section Nine, One South, Four East of the G. & S. R. B. & Meridian; that the said Alexander entered and filed upon the said property in 1910, and paid taxes thereon from 1915 to 1921 inclusive; that final certificate was issued to the said Alexander on August 6, 1929. That said land was not subject to taxation until the year 1930; that the said lands during the years from 1910 to 1930 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1915, and the 30th day of December, 1921, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$159.62.

IV.

That after the payment of the taxes by the said Alexander as above set forth, the said Alexander did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff de-

manded repayment of said taxes [84] so paid to said county of Maricopa, but that said County refused and still refuses to repay the same or any part thereof.

THIRD CAUSE OF ACTION:

And the plaintiff for a third cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her third cause of action.

II.

That F. W. and Maude Bassler, assignors of this plaintiff, were, during the years from 1915 to 1930 inclusive the owner of the Northeast quarter of the Southeast quarter of Section 32, One North, Four East of the G. & S. R. B. & Meridian; that said Basslers entered and filed upon the said property on May 15, 1915, and paid taxes thereon for the years 1916 and 1917; that final certificate issued to said Basslers on December 16, 1930; that said land was not subject to taxation until the year 1931; that said land during the years from 1915 to 1930 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1916, and the 30th day of December 1917, these assignors,

upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$137.01.

IV.

That after the payment of the taxes by the said F. W. and Maude Bassler, as above set forth, the said Basslers did, for valuable consideration, sell, transfer and assign to this [85] plaintiff all their right of action and right, title and interest in and to said account and the taxes paid by them as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

FOURTH CAUSE OF ACTION:

And the plaintiff for a fourth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her fourth cause of action.

II.

That Wm S. Doner, assignor of this plaintiff, was, during *the from* 1911 to 1918 inclusive, the owner of the North half of the Northeast quarter of the Southwest quarter of the Southwest quarter

of Section 15, One north, Three East, and the North half of the Northeast quarter of the Southwest quarter of the Southwest quarter of Section 28, One north, Three east, of the G. & S. R. B. & Meridian; that the said Doner entered and filed upon the said property on the 26th day of September, 1906, and paid taxes thereon from the year 1911 to 1918 inclusive; that said Doner paid the aggregate sum of \$106.96 taxes during those said years. That final certificate was issued to the said Doner in April of 1919; that said land was not subject to taxation until the year 1920; that the said lands during the years from 1911 to 1920 were a reclamation homestead and as such belonged to the United States of America. [86]

III.

That between the 1st day of January, 1911, and the 30th day of December, 1918, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$106.96.

IV.

That after the payment of the taxes by the said Doner, as above set forth, the said Doner did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to

the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

FIFTH CAUSE OF ACTION:

And the plaintiff for a fifth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her *fifty* cause of action.

II.

That E. T. Hanson and Wm Roberson, assignors of this plaintiff, were, during the years from 1908 to 1920 inclusive, the owners of the Northeast quarter of the Southwest quarter of Section One, One south, Two east of the G. & S. R. B. & Meridian; that Wm Roberson entered and filed upon the said property on the 13th day of January, 1908, and paid taxes thereon for the years 1915 and 1916; that said Roberson assigned to E. T. Hanson on the 2nd day of May, 1917; that said Hanson paid taxes thereon from the year [87] 1917 to 1920 inclusive; that said Roberson and Hanson paid the aggregate sum of \$405.50 taxes during those said years. That final certificate was issued to the said Hanson on January 19, 1920. That said land was not subject to taxation until the year 1921; that the said lands during the years from 1908 to 1920 were a reclamation homestead and as

such belonged to the United States of America.

III.

That between the 1st day of January, 1915, and the 30th day of December, 1920, these assignors, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$405.50.

IV.

That after the payment of the taxes by the said Roberson and Hanson as above set forth, the said Roberson and Hanson, for valuable consideration, did sell, transfer and assign to this plaintiff all their right of action and right, title and interest in and to said account and the taxes paid by them as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said County refused and still refuses to repay the same or any part thereof.

SIXTH CAUSE OF ACTION:

And the plaintiff for a sixth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her sixth cause of action. [88]

II.

That Alex Krell, assignor of this plaintiff, was, during the years from 1917 to 1919 inclusive the owner of the Southeast quarter of the Northwest quarter of Section 31, One north, Three East of the G. & S. R. B. & Meridian; that said Alex Krell entered and filed upon the said property on December 8, 1917, and paid taxes thereon from the year 1917 to 1919 inclusive; that final certificate issued to said Krell on August 28, 1919; that said land was not subject to taxation until the year 1920; that said lands during the years from 1917 to 1920 were reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1917, and the 30th day of December, 1919, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$106.40.

IV.

That after the payment of the taxes by the said Alex Krell, as above set forth, the said Krell did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded

repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

SEVENTH CAUSE OF ACTION:

And the plaintiff for a seventh cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity [89] and convenience makes the same a part of this her seventh cause of action.

II.

That Geo. Lutgerding, assignor of this plaintiff, was, during the years 1918 to 1921 inclusive, the owner of the Southeast quarter of the Northeast quarter of Section One, One South, Two East of the G. & S. R. B. & Meridian; that the said Lutgerding entered and filed upon the said property on the 23rd day of December, 1918, and paid taxes thereon from the year 1918 to 1921 inclusive; that final certificate was issued to said Lutgerding on the 11th day of October, 1921. That said land was not subject to taxation until the year 1922; that the said lands during the years from 1918 to 1921 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1918, and the 30th day of December, 1921, this assignor,

upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$509.98.

IV.

That after the payment of the taxes by the said Lutgerding, as above set forth, the said Lutgerding did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof. [90]

EIGHTH CAUSE OF ACTION:

And the plaintiff for an eighth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her eighth cause of action.

II.

That Mabel Lutgerding, assignor of this plaintiff, was, during the years 1918 to 1923 inclusive, the owner of the Northeast quarter of the Northeast quarter of Section One, One South, Two East of

the G. & S. R. B. & Meridian; that the said Mabel Lutgerding entered and filed upon the said property on the 23rd day of December, 1918, and paid taxes thereon from the year 1918 to 1923 inclusive; that said Mabel Lutgerding assigned to Mary Beck on October 22, 1923; that said land was not subject to taxation until the year 1928; that the said lands during the years from 1918 to 1923 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1918, and the 30th day of December, 1923, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$508.56.

IV.

That after the payment of the taxes by the said Mabel Lutgerding, as above set forth, the said Lutgerding did, for valuable consideration, sell, transfer and assign to this plaintiff all her right of action and right, title and interest in and to said account and the taxes paid by her as aforesaid; that [91] previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said County refused and still refuses to repay the same or any part thereof.

NINTH CAUSE OF ACTION:

And the plaintiff for a ninth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her ninth cause of action.

II.

That Mrs. R. J. McDougall, assignor of this plaintiff, was, during the years 1918 to 1921 inclusive, the owner of the Northwest quarter of the Northeast quarter of Section One, One South, Two East of the G. & S. R. B. & Meridian; that the said Mrs. McDougall entered and filed upon the said property on the 23rd day of December, 1918, and paid taxes thereon from the year 1919 to 1921 inclusive; that said Mrs. R. J. McDougall received the final certificate to said land on June 14, 1921; that said land was not subject to taxation until the year 1922; that the said lands during the years from 1918 to 1922 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1919, and the 30th day of December, 1921, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer

of said County, paid to said Treasurer as taxes upon said homestead land the sum of \$491.09.

IV.

That after the payment of the taxes by the said Mrs. R. J. [92] McDougall, as above set forth, the said Mrs. McDougall did, for valuable consideration, sell, transfer and assign to this plaintiff all her right of action and right, title and interest in and to said account and the taxes paid by her as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said County refused and still refuses to repay the same or any part thereof.

TENTH CAUSE OF ACTION:

And the plaintiff for a tenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this, her tenth cause of action.

II.

That Thomas J. Rice, assignor of this plaintiff, was, during the years 1908 to 1919 inclusive, the owner of the Southwest quarter of Section 28, One north, Three east of the G. & S. R. B. & Meridian; that the said Rice entered and filed upon the said property on the 13th day of February,

1908, and paid taxes thereon from the year 1913 to 1919 inclusive; that the final certificate was issued to said Rice on the 28th day of April, 1919; that said land was not subject to taxation until the year 1920; that the said lands during the years from 1908 to 1919 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1913, and the 30th day of December, 1919, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer [93] of said County, paid to said Treasurer as taxes upon said homestead lands the sum of \$608.55.

IV.

That after the payment of the taxes by the said Thomas J. Rice, as above set forth, the said Rice did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

ELEVENTH CAUSE OF ACTION:

And the plaintiff for an eleventh cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this her eleventh cause of action.

II.

That Mrs. Ernest T. Smith, assignor of this plaintiff, was, during the years from 1912 to 1918 inclusive, the owner of the Northwest quarter of the Southwest quarter of Section One, One South, Three East of the G. & S. R. B. & Meridian; that the said Smith entered and filed upon the said property on the 24th day of September, 1912, and paid taxes thereon for the year 1918; that final certificate was issued to said Mrs. Smith on May 1, 1918; that said land was not subject to taxation until the year 1919; that said lands during the years from 1912 to 1919 were a reclamation homestead and as such belonged to the United States of America.

[94]

III.

That between the 1st day of January, 1918, and the 30th day of December, 1918, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$56.00.

IV.

That after the payment of the taxes by the said Mrs. Ernest T. Smith, as above set forth, the said Mrs. Smith did, for valuable consideration sell transfer and assign to this plaintiff all her right of action and right, title and interest in and to said account and the taxes paid by her as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

TWELFTH CAUSE OF ACTION:

And the plaintiff for a twelfth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same part of this her twelfth cause of action.

II.

That W. S. Stevens, assignor of this plaintiff, was, during the years from 1908 to 1919 inclusive, the owner of the South half of the Southwest quarter of Section 28, One north, Three east of the G. & S. R. B. & Meridian; that the said Stevens entered and filed upon the said property on October 15, 1908, and paid taxes thereon from the year 1916 to 1919 inclusive; that final certificate was issued

to said Stevens on April 28, 1919; that said land [95] was not subject to taxation until the year 1920; that said lands during the years from 1908 to 1920 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1916, and the 30th day of December, 1919, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$459.08.

IV.

That after the payment of the taxes by the said W. S. Stevens, as above set forth, the said Stevens did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

THIRTEENTH CAUSE OF ACTION:

And the plaintiff for a thirteenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the

plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her thirteenth cause of action.

II.

That R. H. McElhaney, assignor of this plaintiff, was, during the years from 1916 to 1919 inclusive, the owner of the Northeast quarter of the Southwest quarter of Section 28, One north, Three east of the G. & S. R. B. & Meridian; that the said McElhaney [96] entered and filed upon the said property in August, 1916, and paid taxes thereon from the year 1916 to 1919 inclusive; that final certificate was issued to said McElhaney in April, 1919; that said land was not subject to taxation until *the* 1920; that said lands during the years from 1916 to 1919 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1916, and the 30th day of December, 1919, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$340.57.

IV.

That after the payment of the taxes by the said R. H. McElhaney, as above set forth, the said McElhaney did, for valuable consideration, sell, trans-

fer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

FOURTEENTH CAUSE OF ACTION:

And the plaintiff for a fourteenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her fourteenth cause of action. [97]

II.

That James Willis, assignor of this plaintiff, was, during the years from 1917 to 1921 inclusive, the owner of the East half of the Southeast quarter of the Northwest quarter of Section 24, One north, One east of the G. & S. R. B. & Meridian; that the said Willis entered and filed upon the said property on July 2, 1917, and paid taxes thereon for the years 1917 and 1920; that final certificate was issued to said Willis on February 24, 1921; that said land was not subject to taxation until the year 1922; that said lands during the years from 1917 to 1922 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1917, and the 30th day of December, 1920, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$173.79.

IV.

That after the payment of the taxes by the said James Willis, as above set forth, the said Willis did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

FIFTEENTH CAUSE OF ACTION:

And the plaintiff for a fifteenth cause of action against the defendant alleges and reiterates all of the facts, statements [98] and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her fifteenth cause of action.

II.

That Frank E. Whitton, assignor of this plaintiff, was, during the years from 1915 to 1920, inclusive,

the owner of the South half of the Southeast quarter of Section 33, One north, Three east, of the G. & S. R. B. & Meridian; that said Whitton entered and filed upon the said property in June, 1915, and paid taxes thereon from the year 1916 to 1919 inclusive; that final certificate was issued to said Whitton on March 6, 1920; that said land was not subject to taxation until the year 1921; that said land during the years from 1915 to 1921 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1916, and the 30th day of December, 1919, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$126.55.

IV.

That after the payment of the taxes by the said Frank E. Whitton as above set forth, the said Whitton did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof. [99]

SIXTEENTH CAUSE OF ACTION:

And the plaintiff for a sixteenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her sixteenth cause of action.

II.

That J. R. Whitton and Arthur Trauscht, assignors of this plaintiff, were, during the years from 1918 to 1923 inclusive, the owners of Lot Six, Southeast quarter of Section 33, One North, Three east of the G. & S. R. B. & Meridian; that said Whitton entered and filed upon the said property on July 26, 1918, and paid taxes thereon from the year 1918 to 1921 inclusive; that said Whitton assigned to Arthur Trauscht November 28, 1922; that said Trauscht paid taxes thereon for the years 1922 and 1923; that said Whitton and Trauscht paid the aggregate sum of \$927.76 taxes during those years; that final certificate issued December 15, 1923. That said land was not subject to taxation until the year 1924; that said lands during the years from 1918 to 1924 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1918, and the 30th day of December, 1923, these assignors, upon demand of the taxing authorities of Maricopa

County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$927.76.

IV.

That after the payment of the taxes by the said Whitton and Trauscht, as above set forth, the said Whitton and Trauscht, for valuable consideration, did sell, transfer and assign to this [100] plaintiff all their right of action and right, title and interest in and to said account and the taxes paid by them as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

SEVENTEENTH CAUSE OF ACTION:

And the plaintiff for a seventeenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her seventeenth cause of action.

II.

That Mrs. Sam F. Webb, assignor of this plaintiff, was, during the years from 1906 to 1920 inclusive, the owner of the Northeast quarter of Section 24, One north, One west, of the G. & S. R. B. & Meridian; that said Mrs. Sam F. Webb entered and

filed upon the said property February 21, 1906, and paid taxes thereon from the year 1912 to 1917 inclusive; that final certificate was issued May 27, 1920; that said land was not subject to taxation until the year 1921; that said land during the years from 1906 to 1921 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1912, and the 30th day of December, 1917, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$620.41. [101]

IV.

That after the payment of the taxes by the said Mrs. Sam F. Webb, as above set forth, the said Mrs. Webb did, for valuable consideration, sell, transfer and assign to this plaintiff all her right of action and right, title and interest in and to said account and the taxes paid by her as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

EIGHTEENTH CAUSE OF ACTION:

And the plaintiff for an eighteenth cause of action against the defendant alleges and reiterates all

of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her eighteenth cause of action.

II.

That Maude Willis, assignor of this plaintiff, was, during the years from 1910 to 1924 inclusive, the owner of the West half of the Southwest quarter of Section 24, One north, One East, of the G. & S. R. B. & Meridian; that said Maude Willis entered and filed upon the said property on April 22, 1910, and paid taxes thereon from the year 1919 to 1924 inclusive; that final certificate was issued to said Maude Willis on February 23, 1924; that said land was not subject to taxation until the year 1925; that said lands during the years from 1910 to 1925 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1919, and the 30th day of December, 1924, this assignor, upon demand of the taxing [102] authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$781.25.

IV.

That after the payment of the taxes by the said Maude Willis, as above set forth, the said Maude

Willis did, for valuable consideration, sell, transfer and assign to this plaintiff all her right of action and right, title and interest in and to said account and the taxes paid by her as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

NINETEENTH CAUSE OF ACTION:

And the plaintiff for a nineteenth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her nineteenth cause of action.

II.

That Frank C. and Jesse Norwood, assignors of this plaintiff were, during the years from 1917 to 1920 inclusive, the owners of the Northeast quarter of Section 24, One north, One west, of the G. & S. R. B. & Meridian; that said Norwoods entered and filed upon the said property on October 19, 1917, and paid taxes thereon from the year 1918 to 1920 inclusive; that final certificate issued to said Norwoods on May 27, 1920; that said land was not subject to taxation until the year 1921; that said land during the years from 1918 to 1921 were a recla-

mation homestead and as such [103] belonged to the United States of America.

III.

That between the 1st day of January, 1918, and the 30th day of December, 1920, these assignors, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$1007.22.

IV.

That after the payment of the taxes by the said Norwoods, as above set forth, the said Norwoods did, for valuable consideration, sell, transfer and assign to this plaintiff all their right of action and right, title and interest in and to said account and the taxes paid by them as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

TWENTIETH CAUSE OF ACTION:

And the plaintiff for a twentieth cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of brevity and convenience makes the same a part of this her twentieth cause of action.

II.

That Wm Wetzler and J. J. Fagan, assignors of this plaintiff, were, during the years from 1915 to 1925 inclusive, the owners of the Northeast quarter of the Southeast quarter of Section One, One South, Two east of the G. & S. R. B. & Meridian; that the said Fagan entered and filed upon the said property on the 2nd day of [104] June, 1915, and paid taxes thereon from the year 1915 to 1917 inclusive; that said Fagan assigned to Wm Wetzler on October 5, 1917; that said Wetzler paid taxes thereon from the year 1918 to 1925 inclusive; that said Fagan and Wetzler paid the aggregate sum of \$1263.24 during those said years; that final certificate issued to said Wetzler on January 2, 1925; that said land was not subject to taxation until the year 1926; that said lands during the years from 1915 to 1926 were a reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1915, and the 30th day of December, 1925, these assignors, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$1263.24.

IV.

That after the payment of the taxes by the said J. J. Fagan and Wm Wetzler, as above set forth,

the said Fagan and Wetzler, for valuable consideration, did sell, transfer and assign to this plaintiff all their right of action and right, title and interest in and to said account and the taxes paid by them as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

TWENTY-FIRST CAUSE OF ACTION:

And the plaintiff for a twenty-first cause of action against the defendant alleges and reiterates all of the facts, statements and allegations set forth in the plaintiff's first cause of action from paragraph I to XXIII inclusive, and for purpose of [105] brevity and convenience makes the same a part of this her twenty-first cause of action.

II.

That J. F. Westberg, assignor of this plaintiff, was, during the years 1912 to 1934 inclusive, the owner of the Northwest quarter of the Southeast quarter of Section One, One south, Two east, of the G. & S. R. B. & Meridian; that said Westberg entered and filed upon the said property on June 2, 1912, and paid taxes thereon from the year 1916 to 1933 inclusive; that final certificate issued to said Westberg on March 24, 1934; that said land was not subject to taxation until the year 1935; that said land during the years from 1912 to 1935 were a

reclamation homestead and as such belonged to the United States of America.

III.

That between the 1st day of January, 1916, and the 30th day of December, 1933, this assignor, upon demand of the taxing authorities of Maricopa County, State of Arizona, including the Treasurer of said county, paid to said Treasurer as taxes upon said homestead lands the sum of \$2833.63.

IV.

That after the payment of the taxes by the said J. F. Westberg, as above set forth, the said Westberg did, for valuable consideration, sell, transfer and assign to this plaintiff all his right of action and right, title and interest in and to said account and the taxes paid by him as aforesaid; that previous to the bringing of this action this plaintiff demanded repayment of said taxes so paid to said county of Maricopa, but that said county refused and still refuses to repay the same or any part thereof.

WHEREFORE, plaintiff prays judgment against said defendant for the further sum of \$11,723.17, together with interest thereon [106] at the legal rate from the time of payment thereof until the rendition of judgment herein, together with costs

and disbursements herein expended, and for such other and further relief as to the court may seem just and equitable.

D. P. SKOUSEN

Attorney for Plaintiff

Copy received Aug. 27, 1934

M. L. OLLERTON

Deputy County Attorney

Copy received this 27th day of August, 1934.

CHARLES L. STROUSS

Assistant Attorney General

[Endorsed]: Filed Sep 18 1934 [107]

Minute Entry of
MONDAY, SEPTEMBER 24, 1934

April 1934 Term

At Phoenix

HONORABLE F. C. JACOBS, United States District Judge, presiding

[Title of Cause.]

Plaintiff's Motion to Set Cause for Hearing, comes on regularly for hearing this day.

No counsel appearing for the parties herein,

IT IS ORDERED that said Motion be continued and reset for hearing Monday, October 1, 1934, at the hour of ten o'clock, A. M. [108]

stipulation of counsel heretofore filed herein, pursuant to Amended Agreed Statement of Facts, heretofore filed herein.

D. P. Skousen, Esquire, appears as counsel for Plaintiff.

Arthur T. LaPrade, Esquire, Attorney General of the State of Arizona, by R. H. Cornelius, Esquire, Assistant Attorney General of the State of Arizona, appears as counsel for Defendant.

Both sides announce ready for trial.

Counsel for Plaintiff now makes a statement of the case to the Court.

Whereupon, the following oral and documentary evidence is introduced:

PLAINTIFF'S CASE:

The plaintiff, Olivia Roseveare, is now duly sworn and examined in her own behalf.

Upon stipulation of counsel,

IT IS ORDERED that Plaintiff's Exhibit Number one, [110] Twenty-one (21) Assignments of Tax Claims, be admitted in evidence.

Thereupon, the Plaintiff rests.

Whereupon, defendant renews Special Demurrers to Plaintiff's Amended Complaint, and excepts to the Order of the Court heretofore entered herein, overruling said Demurrers.

And the Defendant rests.

Both sides rest.

Said cause is submitted to the Court, and the

Court having duly considered the same, and being fully advised in the premises,

IT IS ORDERED that Judgment be entered for Plaintiff as prayed for in Plaintiff's Complaint, and that counsel for Plaintiff prepare Judgment.

[111]

Minute Entry of
TUESDAY, OCTOBER 16, 1934

October 1934 Term

At Phoenix

HONORABLE F. C. JACOBS, United States District Judge, presiding

L-812

OLIVIA ROSEVEARE,

Plaintiff,

vs.

THE COUNTY OF MARICOPA, STATE OF ARIZONA,

Defendant.

JUDGMENT.

This cause came on regularly for trial on the 16th day of October, 1934, the plaintiff appearing in person and by her counsel, D. P. Skousen, and the defendant appearing by M. L. Ollerton, deputy county attorney, for Renz L. Jennings, county attorney, and by R. H. Cornelius, deputy attorney general, for Arthur T. LaPrade, attorney general. A trial by jury having been expressly waived in writ-

ing by the respective parties, the cause was tried before the court sitting without a jury; whereupon an agreed statement of facts was filed; the plaintiff was sworn and examined, and documentary evidence being closed, the cause was submitted to the court for consideration and decision. After due deliberation thereon the court finds that the plaintiff is entitled to the recoveries and remedies prayed for; wherefore, by reason of the premises:

IT IS ORDERED, ADJUDGED AND DECREED that the plaintiff, Olivia Roseveare, do have and recover of and from the defendant, the County of Maricopa, State of Arizona, the sum of \$13024.32 principal, together with the sum of \$2944.38 interest, together with his costs and disbursements herein taxed and allowed in the sum of \$27.30, being a total sum of [112] \$15,996.00, together with interest thereon at the rate of six (6%) per cent per annum from October 16, 1934, until paid; and that such process as may be necessary and proper for the collection and enjoyment of this judgment, issue for the benefit of said plaintiff.

Judgment entered by the clerk by order of Judge Jacobs on October 16, 1934.

Approved as to form this 16th day of October, 1934.

RENZ L. JENNINGS

By M. L. OLLERTON

County Attorney

R. H. CORNELIUS

Asst. Attorney general. [113]

[Title of Court and Cause.]

PETITION FOR APPEAL

To the Honorable F. C. Jacobs, Judge of the District Court, aforesaid;

COMES NOW the County of Maricopa, State of Arizona, by and through its Attorneys, and respectfully shows that on the 16th day of October, 1934, the Court made and entered its final judgment against petitioner and in favor of Plaintiff, Olivia Roseveare.

The said action is one wherein the Plaintiff is seeking to recover from the Defendant upon the ground that the Plaintiff and certain assignors of the Plaintiff paid to the Defendant taxes levied by the Defendant, which said taxes the Plaintiff claims to have been illegally levied and collected; and the case is one in which under the legislation in force when the act of January 31, 1928, was passed, a review could be had on writ of error.

Your petitioner, feeling aggrieved by the said judgment entered as aforesaid, herewith petitions the Court for an order allowing it to appeal from said judgment to the Circuit Court of Appeals of the United States, for the Ninth Circuit, under the laws of the United States in such cases made and provided for the reasons specified in the assignment of errors filed herewith.

WHEREFORE, premises considered, your petitioner prays that a writ of error do issue, and that the Court make and enter its order that an appeal

in this behalf to the U. S. Circuit Court of Appeals for the Ninth Circuit, sitting at San Francisco, California, [114] in said circuit, for the correction of the errors complained of, and herewith assigned, be allowed and that an order be made fixing the amount of security to be given by Plaintiff in Error conditioned as the law directs, and upon giving such security as may be required, that all further proceedings may be suspended until determination of said appeal by said circuit court of appeals.

DATED this 14th day of January, 1935, at Phoenix, Arizona.

HARRY J. JOHNSON

County Attorney of Maricopa County,
Attorney for Defendant.

EARL ANDERSON

By E. G. FRAZIER

Deputy County Attorney.

JOHN L. SULLIVAN

Attorney General

Of Counsel for Defendant.

By DUDLEY W. WINDES

Assistant Attorney General.

Received copy hereof this 14th day of January,
1935

D. P. SKOUSEN

Attorney for Plaintiff.

[Endorsed]: Filed Jan 14 1935 [115]

[Title of Court and Cause.]

ASSIGNMENT OF ERROR

COMES NOW the County of Maricopa, State of Arizona, Plaintiff, in the above entitled cause, and in connection with its petition for writ of error and appeal in this cause, assigns the following errors which plaintiff in error avers occurred on the trial thereof and upon which it relies to reverse the judgment herein, as appears of record;

I.

That the Court erred in overruling the special demurrer to the Complaint and Amended Complaint filed in this cause for the reason that it appears upon the face of said complaint and amended complaint, upon which the judgment herein is based, that each of the causes of action set out in said amended complaint is barred by the Statute of Limitations of the State of Arizona and particularly by Section 2059, Revised Code of Arizona, 1928, which said section provides, among other things, that an action for the detention of personal property and conversion of the same, shall be brought within two years after said cause of action accrues; and it appears from the face of said complaint and amended complaint that each of said causes of action accrued more than two years prior to the Commencement of this Action.

II.

That the Court erred in overruling the special demurrer to the Complaint and amended complaint

filed in this cause for the [116] reason that it appears upon the face of said complaint and amended complaint, upon which the judgment herein is based, that each of the causes of action set out in said amended complaint is barred by the Statute of Limitations of the State of Arizona, and particularly by Section 2060, Revised Code of Arizona, 1928, which said section provides that an action upon an indebtedness, not evidenced by a contract in writing, shall be brought within three years after the cause of action shall have accrued, and it appears that from said complaint and amended complaint that all of said causes of action herein accrued more than three years prior to the commencement of this action.

III.

That the Court erred in overruling the special demurrer to the Complaint and Amended Complaint filed in this cause for the reason that it appears upon the face of said complaint and amended complaint, upon which the judgment herein is based, that each of the causes of action set out in said amended complaint is barred by the Statute of Limitations of the State of Arizona, and particularly by Section #2063, Revised Code of Arizona, 1928, which said section provides that all actions other than for recovery of real property, for which no other limitation is otherwise prescribed, shall be brought within four years next after the same shall have accrued; and it appears from the face of

said complaint and amended complaint, that each of the causes of action therein set forth, accrued more than four years prior to the commencement of this action.

IV.

That the Court erred in rendering the judgment herein for the reason that the same appears to have been based upon an agreed statement of facts, and it appears in said agreed statement of facts that each of the causes of action set forth in the complaint and amended complaint is barred by the Statute of Limitations, and particularly by the provisions of said Sections 2059, 2060 and 2063, [117] Revised Code of Arizona, 1928; in that it appears in said agreed statement of facts that each of said causes of action sued on herein accrued more than four years prior to commencement of this action.

WHEREFORE plaintiff in error prays that the judgment of said Court be reversed; that judg-

ment be entered dismissing complaint and awarding plaintiff in error its costs herein.

Dated at Phoenix, Arizona, this 14th day of January, 1935.

HARRY JOHNSON

Attorney for Plaintiff in Error.

CARL ANDERSON

By E. G. FRAZIER

Deputies

JOHN L. SULLIVAN

Attorney General

Of Counsel

By DUDLEY W. WINDES

Assistant Attorney General

Received copy hereof this 14th day of January, 1935

D. P. SKOUSEN

Attorney for Plff.

[Endorsed]: Filed Jan 14 1935 [118]

[Title of Court and Cause.]

ORDER ALLOWING APPEAL

It appearing that the Defendant in the above entitled cause has filed in this Court a petition for an appeal from the final judgment herein dated October 16, 1934, together with an assignment of error and prayer for reversal,

It is hereby ordered that an appeal, as prayed for in said petition be and it is hereby allowed, and

the bond on appeal, condition as required by law, is hereby fixed at the sum of five hundred Dollars, and said bond shall operate as a cost bond.

Dated this 15th day of January, 1935, at Phoenix, Arizona.

F. C. JACOBS

Judge of Said Court.

Received copy hereof this 14th day of January 1935

D. P. SKOUSEN

Attorney for Plaintiff

[Endorsed]: Filed Jan 15 1935 [119]

[Title of Court and Cause.]

BOND ON APPEAL

Know All Men by these Presents:

That we, the County of Maricopa, State of Arizona, as principal, and UNITED STATES FIDELITY AND GUARANTY COMPANY, as surety, are held and firmly bound unto the plaintiff herein, Olivia Roseveare, her heirs, executors and administrators, in the sum of Five Hundred and no/100 Dollars, to be paid to the said Olivia Roseveare, her heirs, executors, administrators and assigns to which payment well and truly to be made we bind ourselves, our assigns and successors, jointly and severally, by these presents.

Sealed with *out* seals and dated this 15th day of January, in the year of our Lord, 1935.

WHEREAS, lately at the October term, A. D. 1934, of the United States District Court, for the District of Arizona, in a suit pending in said Court between Olivia Roseveare, plaintiff, and the County of Maricopa, State of Arizona, defendant, No. L-812-Phx, judgment was rendered against the said defendant in the sum of Fifteen thousand nine hundred and ninety-six (\$15,996) Dollars and the said County of Maricopa, State of Arizona, defendant, has obtained an appeal from said Court to reverse the judgment in the aforesaid suit and a citation directed to said Olivia Roseveare, plaintiff, citing and admonishing her to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit at the City of San Francisco, California, thirty days from and after [120] the date of said citation.

Now, the condition of the above obligation is such that if the said, the County of Maricopa, State of Arizona, shall prosecute said appeal to effect and answer for and pay all costs herein if it fails to

make good its plea, then the above obligation to be void, else to remain in full force and virtue.

[Seal] COUNTY OF MARICOPA,
STATE OF ARIZONA

Principal, Defendant

By C. W. PETERSON

Chairman, Board of Supervisors, Mar. Co.

Attest:

J. E. DESOUZA

Clerk, Board of Supervisors, Maricopa County,
Arizona.

[Seal] UNITED STATES FIDELITY
AND GUARANTY COMPANY

Surety

[Seal] By GROVER C. SUGGS

Its Attorney-in-Fact

The foregoing bond is approved both as to sufficiency and form and is allowed as a cost bond on this 18th day of January, 1935.

F. C. JACOBS

Judge of said Court.

Received copy hereof this 16th day of January,
1935

D. P. SKOUSEN RR

Attorney for Plaintiff

[Endorsed]: Filed Jan 18 1935 [121]

Minute Entry of
FRIDAY, JANUARY 18, 1935

October 1934 Term

At Phoenix

HONORABLE F. C. JACOBS, United States District Judge, presiding

[Title of Cause.]

Comes now the Defendant by its counsel, Earl Anderson, Esquire, Deputy County Attorney for the County of Maricopa, State of Arizona, and presents to the Court its bond on appeal executed on the 15th day of January, 1935, in the sum of Five Hundred Dollars (\$500.00), with United States Fidelity and Guaranty Company, as surety thereon, and

IT IS ORDERED that said bond be and the same is hereby accepted and approved. [122]

[Title of Court and Cause.]

PRAECIPE FOR PAPERS TO BE INCLUDED
IN TRANSCRIPT ON APPEAL

To The Clerk of the Court Above-named:

You will please prepare a transcript on appeal in the above-entitled cause incorporating therein the hereinafter designated papers, documents and records and when you have prepared and certified thereto, forward the same to the Clerk of the United

States Circuit Court of Appeal for the Ninth Circuit at San Francisco, California.

The papers, records and documents to be included in said transcript are as follows:

First Amended Complaint,
Demurrers to First Amended Complaint,
Answer to Amended Complaint,
Second Amended Complaint,
Agreed Statement of Facts,
Copy of all Minute Entries and Orders,
Waiver of Jury,
Final Judgment,
Petition for Appeal,
Assignment of Errors,
Order Allowing Appeal,
Citation on Appeal,
Bond on Appeal, and
This Praecepte.

DATED this 15th day of January, 1935.

HARRY JOHNSON

County Attorney of Maricopa County,
Attorney for Defendant.

EARL ANDERSON

By E. G. FRAZIER

Deputy County Attorney.

JOHN L. SULLIVAN

Attorney General

Of Counsel for Defendant

By DUDLEY W. WINDES

Assistant Attorney General [123]

Received copy hereof this 16th day of January,
1935

D. P. SKOUSEN R.R.
Attorney for Plaintiff

[Endorsed]: Filed Jan 16 1935 [124]

[Title of Court and Cause.]

AMENDED PRAECIPE FOR PAPERS TO BE
INCLUDED IN TRANSCRIPT ON APPEAL

To the Clerk of the Court above-named:

You will please prepare a transcript on appeal in the above-entitled cause incorporating therein the hereinafter designated papers, documents and records and when you have prepared and certified thereto, forward the same to the Clerk of the United States Circuit Court of Appeal for the Ninth Circuit at San Francisco, California.

The papers, records and documents to be included in said transcript are as follows:

First Amended Complaint,
Demurrers to First Amended Complaint,
Answer to Amended Complaint,
Second Amended Complaint,
Agreed Statement of Facts, Filed Sept. 17, 1934,
Copy of all Minute Entries and Orders,
Waiver of Jury,
Final Judgment,
Petition for Appeal,
Assignment of Errors,

Order Allowing Appeal,
Citation on Appeal,
Bond on Appeal, and
Amended Praecipe for papers on appeal.

DATED this 26th day of January, 1935.

HARRY JOHNSON,
County Attorney of Maricopa County, Attorney
for Defendant.

EARL ANDERSON,
By E. G. FRAZIER,
Deputy County Attorney.

JOHN SULLIVAN,
Attorney General
Of Counsel for Defendant.

By DUDLEY W. WINDES,
Assistant Attorney General [125]

Received copy hereof this 26th day of January,
1935.

D. P. SKOUSEN, RR.
Attorney for Plaintiff.

[Endorsed]: Filed Jan 26 1935. [126]

In the United States District Court
For the District of Arizona

CLERK'S CERTIFICATE
TO TRANSCRIPT OF RECORD

United States of America,
District of Arizona.—ss.

I, J. Lee Baker, Clerk of the United States District Court for the District of Arizona, do hereby certify that I am the custodian of the records, papers and files of the said Court, including the records, papers and files in the case of Olivia Roseveare, Plaintiff, vs. The County of Maricopa, State of Arizona, Defendant, numbered L-812-Phoenix on the docket of said Court.

I further certify that the attached pages, numbered 1 to 129, inclusive, contain a full, true and correct transcript of the proceedings of said cause and all the papers filed therein, together with the endorsements of filing thereon called for and designated in the praecipe filed in said cause and made a part of the transcript attached hereto, as the same appear from the original of records and on file in my office as such Clerk, in the City of Phoenix, State and District aforesaid.

I further certify that the Clerk's fee for preparing and certifying to this said transcript of record amounts to the sum of \$22.15, and that said sum has been paid to me by counsel for the appellant.

I further certify that the original citation issued

in the said cause is hereto attached and made a part of this record.

WITNESS my hand and the Seal of the said Court this 5th day of February, 1935.

[Seal]

J. LEE BAKER,
Clerk. [127]

[Title of Court and Cause.]

CITATION ON APPEAL

To the above-named plaintiff and her attorney of record:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals, for the Ninth Circuit, at the City of San Francisco, California, thirty days from and after this citation bears date, pursuant to appeal on file in the Clerk's office of the District Court of the United States for the District of Arizona, wherein the County of Maricopa, State of Arizona, is appellant, and Olivia Roseveare is appellee to show cause, if any there be, why the judgment rendered against the said defendant, as in said appeal mentioned, should not be corrected and why speedy justice should not be done the parties in that behalf.

Witness the Honorable Fred C. Jacobs, Judge of the District Court of the United States for the District of Arizona, this 15th day of January, 1935.

[Seal]

F. C. JACOBS,
Judge of the District Court of the United States for the District of Arizona. [128]

Received copy hereof and due service of the within citation accepted and admitted this 16th day of January 1935

D. P. SKOUSEN R.R.

Attorney for Plaintiff

[Endorsed]: Filed Jan. 16, 1935. [129]

[Endorsed]: No. 7766. United States Circuit Court of Appeals for the Ninth Circuit. The County of Maricopa, State of Arizona, Appellant, vs. Olivia Roseveare, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the District of Arizona.

Filed February 7, 1935.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

